

Brent O. Hatch (5715)
hatch@hatchpc.com
Tyler V. Snow (12668)
snow@hatchpc.com
HATCH LAW GROUP
22 East 100 South, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 869-1919

Attorneys for Plaintiff and the Class

(Associated counsel listed after signature block)

UNITED STATES DISTRICT COURT
CENTRAL DIVISION, DISTRICT OF UTAH

CHRISTOPHER RACKAUCKAS, Individually
and on Behalf of All Others Similarly Situated,

Plaintiffs,

v.

SAFEMOON LLC, SAFEMOON US,
LLC, SAFEMOON CONNECT, LLC, TANO
LLC, SAFEMOON LTD, SAFEMOON
PROTOCOL LTD, SAFEMOON MEDIA
GROUP LTD, DAVID PORTNOY, BRADEN
JOHN KARONY, JACK HAINES-DAVIES,
RYAN ARRIAGA, SHAUN WITRIOL,
HENRY "HANK" WYATT, THOMAS SMITH,
KYLE NAGY, JAKE PAUL, NICK CARTER,
DeANDRE CORTEZ WAY, BEN PHILLIPS,
MILES PARKS McCOLLUM, and DANIEL M.
KEEM,

Defendants.

COMPLAINT

PROPOSED CLASS ACTION

(Demand for Jury Trial)

Case No. 2:22-cv-00332-DBP

Magistrate Judge Dustin B. Pead

Plaintiff Christopher Rackauckas (“Plaintiff”; together with the class, “Plaintiffs”), individually and on behalf of all others similarly situated, brings this Class Action Complaint (“Complaint”) against Defendants SafeMoon LLC, SafeMoon US, LLC, SafeMoon Connect, LLC, Tano LLC, SafeMoon LTD, SafeMoon Protocol LTD, and SafeMoon Media Group LTD (collectively “SafeMoon” or the “Company”), Jake Paul, Nick Carter, DeAndre Cortez Way, Ben Phillips, Miles Parks McCollum, Daniel M. Keem, and David (“Dave”) Portnoy (the “Promoter Defendants”) and Individual Defendants Braden John Karony, Jack Haines-Davies, Ryan Arriaga, Shaun Witriol, Henry Wyatt, Thomas Smith, and Kyle Nagy (the “Controller Defendants,” and together with the Promoter Defendants and SafeMoon, the “Defendants”). The following allegations are based upon personal knowledge as to Plaintiff’s own facts, upon investigation by Plaintiffs’ counsel, and upon information and belief where facts are solely in possession of Defendants.

INTRODUCTION

1. This action arises from Defendants’ issuance and promotion of digital assets known as “SAFEMOON Tokens.”

2. SafeMoon and its principals are among the scores of profiteers who have attempted to ride on the coattails of the most successful cryptocurrencies, such as Bitcoin and Ethereum, by developing and issuing their own new crypto-assets. By taking advantage of retail investors’ hopes of investing in the next Bitcoin, the creators of a new crypto-asset can profit to the tune of hundreds of millions of dollars. The success of many such schemes comes down to marketing.

3. The marketing of the SAFEMOON Tokens started with their name. Derived from the phrase “Safely to the Moon,” the name was meant to imply that the tokens were a safe way of

getting to the “Moon”—which, in the parlance of cryptocurrency investors, refers to a rapid increase in value.

4. SafeMoon and its principals marketed the tokens relentlessly on social media platforms, especially Twitter. Indeed, as CoinDesk notes, SafeMoon is “shilled endlessly on Twitter.” By way of example, a few weeks after the issuance of the first SAFEMOON TOKENS, SafeMoon tweeted: 396,384,506,514,787 BURNT.” In response, Defendant Karony tweeted: “New ATH .. Check. Continual burns .. also check. Moon... #Imminent.” (The acronym “ATH” refers to an all-time high price.)

5. SafeMoon also enlisted a cohort of celebrity promoters, who exploited their fanbases and their social media platforms to drum up interest in the SAFEMOON Tokens. One such celebrity promotor was Dave Portnoy, the creator of the Barstool Sports blog. Portnoy created a video hawking the SAFEMOON Tokens that was watched by at least 1.5 million people the day Portnoy posted it online and was featured on Fox Business the following day. In the video, Portnoy recommended to his followers: “If it is a Ponzi, get in on the ground floor. To the Moon, safely we go.” He further discloses that he had purchased \$40,000 in SAFEMOON Tokens and that “he will not sell in the near future.” Portnoy tweeted later that day: “Ps - #safemoon is up 25% since I adopted it” and “Rules of #SAFEMOON”: “Always tell people you bought it,” “Never sell it,” “Get pucks in deep,” and “Make memes.”

6. Purchasers of SAFEMOON Tokens lost hundreds of millions of dollars. Some lost money when false representations regarding the Tokens came to light. Others lost money when SafeMoon issued a second version of SAFEMOON Tokens, known as “V2,” and imposed a “100% tax” on transaction in the original “V1” Tokens—effectively confiscating them when investors

attempted to complete transactions. Of course, investors never would have suffered any of those losses if the SAFEMOON Tokens had never been issued.

7. The SAFEMOON Tokens were illegal from the start. Created from thin air, they had no use whatsoever. The entirety of their value was investors' hope that their market price would appreciate when SafeMoon developed products such as a cryptocurrency wallet. As explained in greater detail below, they fall squarely under the definition of a "security" under federal law, as established by the Supreme Court in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946), and as applied to the context of digital in the SEC's "Framework for 'Investment Contract' Analysis of Digital Assets," published in 2019.

8. Indeed, SafeMoon's principals acknowledged and even touted that the SAFEMOON Tokens were analogous to a stock, which is of course a paradigmatic example of a security. As Defendant Arriaga proclaimed in an online video:

Look at any asset class in the world. You can well define it as a Ponzi scheme, however you can't with stocks because they're based on intrinsic value. They're based on the intrinsic value of a company. So as the company does well and it releases features, guess what? The stock goes up. As the company does bad or has bad PR, the stock goes down. Now, just because you got into a company before IPO does that mean that you got into a Ponzi scheme? No, no, that actually doesn't. Now you don't need your Series A to understand this very basic concept. . . . I wouldn't call SafeMoon a Ponzi Scheme because SafeMoon has intrinsic value.

9. Yet Defendants did not file registration statements for SAFEMOON Tokens with the SEC, as the federal securities laws require. Those laws were enacted to protect investors following the stock market crash of 1929 and the Great Depression that followed. Almost 100 years later, the guardrails those laws put in place here afford remedies to investors who purchased SAFEMOON tokens—which, SafeMoon's principals themselves claimed, are analogous to a stock. Defendants'

conduct, including their confiscation of V1 SAFEMOON Tokens, also gives rise to common-law claims for conversion and unjust enrichment.

10. On behalf of investors who have purchased SAFEMOON Tokens in the United States, Plaintiffs bring suit to recover from Defendants the consideration paid for the SAFEMOON Tokens, together with the interest thereon; damages resulting from Defendants' wrongdoing; and disgorgement of Defendants' ill-gotten gains.

PARTIES

Plaintiffs

11. Plaintiff Christopher Rackauckas is a resident and citizen of Massachusetts.

12. Plaintiff made his first purchase of SAFEMOON Tokens on April 27, 2021. In a series of purchase that day, he acquired total of 13,260,241,194 SAFEMOON Tokens for a total of \$69,502.86. Plaintiff subsequently sold 1,001,550,402 of his SAFEMOON Tokens on May 2, 2021, and May 13, 2021, at a loss. He continues to hold 11,582,336 SAFEMOON Tokens, which are currently worth \$0.0000001073 each—approximately 2% of the price at which they were purchased.

Defendants

13. Defendant SafeMoon LLC is a privately held company with its headquarters located at 364 N 500 E, Provo, UT 84606.

14. Defendant SafeMoon US, LLC is a privately held company with its headquarters located at 1022 W 2200 N. Pleasant Grove, UT 84062.

15. Defendant SafeMoon Connect, LLC is a privately held company with its headquarters located at 1022 W 2200 N. Pleasant Grove, UT 84062.

16. Defendant Tano LLC is a privately held company with its headquarters located at 1022 W 2200 N. Pleasant Grove, UT 84062.

17. Defendant SafeMoon LTD is a privately held company that was incorporated on April 8, 2021, with its headquarters located at 20-22, Wenlock Road, London, England, N1 7GU.¹

18. Defendant SafeMoon Protocol LTD is a privately held company that was incorporated on April 8, 2021 with its headquarters located at 20-22, Wenlock Road, London, England, N1 7GU.

19. Defendant SafeMoon Media Group LTD is a privately held company that was incorporated on June 28, 2021, with its headquarters located at The Terrace 5th Floor, 76 Wardour Street, London, United Kingdom, W1F 0UR.

20. Defendant Braden John Karony (“Karony”) is a resident and citizen of Utah, living in Provo, Utah. Karony serves as the Company’s CEO, and he exercised control over SafeMoon and directed and/or authorized, directly or indirectly, the sale and/or solicitations of SAFEMOON Tokens to the public.

¹ The only listed director and shareholder for the SafeMoon entities in the United Kingdom is an Italian national, Castiliano Foini. Publicly available information about Foini and the UK entities is limited. However, a search of the UK’s government’s company information website indicates that a now-dissolved privately held company, Target Company Development Ltd (Company # 12420163), was located at the same address as the SafeMoon UK entities. Notably, that company’s only director and shareholder was Braden John Karony’s mother, Jennifer Diane Karony. Similarly, according to bankruptcy filings submitted by Mrs. Karony and her husband (Karony’s father, Bradford J. Karony) in 2013, the Karony family home is listed as 364 N. 500 East Provo, UT 84606. See Summary of Schedules – Amended, Schedule C – Property Claimed, Karony, 13- 13777-BFK (E.D. Va. Oct. 8, 2012). This is the same address for the SafeMoon LLC entity. Upon information and belief, Karony, with the aid of his parents, set up the Company’s corporate structure in a purposefully complex manner to hide the ownership interests in the various SafeMoon entities in the U.S. and UK.

21. Defendant Jack Haines-Davies (“Haines-Davies”) is a resident and citizen of the United Kingdom, living in London, England. Haines-Davies served as the Company’s Chief Operating Officer (“COO”) until September 2021.

22. Defendant Ryan Arriaga (“Arriaga”) is a resident and citizen of California, living in Elk Grove, California. Arriaga has served as the Company Global Head of Products since July 2021. He has, however, been associated with SafeMoon as a promoter of SAFEMOOON tokens since at least May 2021.

23. Defendant Shaun Witriol (“Witriol”) is a resident and citizen of California, living in San Diego, California. Witriol served as co-COO for the Company until September 2021.

24. Defendant Henry (“Hank”) Wyatt (“Wyatt”) is a resident and citizen of Pennsylvania, living in Shippensburg, Pennsylvania. Wyatt served as the Company’s Chief Technology Officer and Vice President of Research and Development until September 2021.

25. Defendant Thomas “Papa” Smith (“Smith”) is a resident and citizen of New Hampshire, living in Conway, New Hampshire. Smith served as the Chief Blockchain Officer until November 2021.

26. Defendant Kyle Nagy is a resident and citizen of Florida, living in Vero Beach, Florida. Nagy was the founder of SafeMoon and served as lead developer of the SAFEMOON token.

27. Defendants Karony, Haines-Davies, Arriaga, Witriol, Wyatt, Smith, and Nagy are collectively referred to as the “Controller Defendants.”

28. Defendant David Portnoy (“Portnoy”) is a resident and citizen of New York, living in New York, New York. Portnoy acted as a promoter for the Company and the SAFEMOON Tokens.

29. Defendant Jake Paul (“Paul”) is a resident and citizen of California, living in Calabasas, California. Paul acted as a promotor for the Company and the SAFEMOON Tokens.

30. Defendant Nick Carter (“Carter”) is a resident and citizen of Nevada, living in Las Vegas, Nevada. Carter acted as a promotor for the Company and the SAFEMOON Tokens.

31. Defendant DeAndre “Souja Boy” Cortez Way (“Way”) is a resident and citizen of California, living in Bell Canyon, California. Way acted as a promotor for SafeMoon and the SAFEMOON Tokens.

32. Defendant Ben Phillips (“Phillips”) is a resident and citizen of the United Kingdom, living in Wales, United Kingdom. Phillips acted as a promotor for the Company and the SAFEMOON Tokens.

33. Defendant Miles “Lil Yachty” Parks McCollum (“McCollum”) is a resident and citizen of Georgia, living in Smyrna, Georgia. McCollum acted as a promotor for the Company and the SAFEMOON Tokens.

34. Defendant Daniel M. Keem is a resident and citizen of New York, living in Buffalo, New York. Keem acted as a promoter for the Company and the SAFEMOON tokens.

35. Defendants Portnoy, Paul, Carter, Way, Phillips, McCollum, and Keem are collectively referred to as the “Promotor Defendants.”

JURISDICTION AND VENUE

36. The Court has jurisdiction under 28 U.S.C. § 1331 because Plaintiffs bring claims under Sections 5, 12(a)(1), and 15 of the Securities Act of 1933, 15 U.S.C. §§ 77e, 77l(a)(1), 77o. This Court also has jurisdiction over the Securities Act claims pursuant to Section 22 of that Act, *id.* § 77v. In addition, this Court has subject-matter jurisdiction over Plaintiffs’ state-law claims

pursuant to 28 U.S.C. § 1332 because there are 100 or more class members, the amount at issue exceeds \$5 million, and there is minimal diversity.

37. The Court has personal jurisdiction over Defendants as a result of their acts occurring in or aimed at Utah in connection with the offer or sale of unregistered securities. In addition, Defendants SafeMoon LLC, SafeMoon US, LLC, SafeMoon Connect, LLC, Tano LLC, and Karony reside in Utah and are thus subject to general jurisdiction.

38. Venue is proper pursuant to 15 U.S.C. § 77v(a), and 28 U.S.C. § 1391(b), in that this is a district wherein one or more Defendants is found or transacts business, where the offer or sale of SAFEMOON tokens took place, and where a substantial part of the events or omissions giving rise to the claims occurred. According to Karony, SafeMoon’s “Global HQ” is located in Pleasant Grove, Utah. In addition, the United States District Court for the District of Utah is an appropriate venue for class members who bought SAFEMOON tokens through the SafeMoon Wallet under the Wallet’s Terms of Service, which state: “You agree that in the event we are unable to settle any dispute with you, then all court or arbitration proceedings shall be held in Utah, US only.”

FACTUAL ALLEGATIONS

I. Background on Crypto-Assets and Decentralized Finance

39. A crypto-asset is a digital asset designed to work as a medium of exchange or a store of value or both. Crypto-assets leverage a variety of cryptographic principles to secure transactions, control the creation of additional units, and verify the transfer of the underlying digital assets.

40. Created in 2009, Bitcoin was the world's first decentralized crypto-asset.² With a current market capitalization of approximately \$580 billion, Bitcoin is also the largest and most popular crypto-asset. Bitcoin spawned a market of other crypto-assets that, together with Bitcoin, have a current market capitalization of \$1.3 trillion.

41. One of the main features that Bitcoin popularized was the use of a distributed ledger to track the ownership and transfer of every Bitcoin in existence. This distributed ledger is known as a blockchain. Blockchains are a central technical commonality across most crypto-assets. While each blockchain may be subject to different technical rules and permissions based on the preferences of its creators, they are typically designed to achieve a form of decentralization.

42. There are two main ways to obtain crypto-assets. One way is to be part of the framework of incentives to validate the transactions on the blockchain, under either a "Proof of Work" or "Proof of Stake" scheme. Users who expend resources to validate the blockchain get rewarded with newly minted tokens. This process is colloquially referred to as "mining" for Proof of Work blockchains or "validating" for Proof of Stake blockchains.

43. A second and more common way to obtain crypto-assets is to acquire them from someone else. This often involves acquiring them through online crypto-asset exchanges. These exchanges are similar to traditional exchanges in that they provide a convenient marketplace to match buyers and sellers of virtual currencies.

44. Bitcoin, for a time, was the only crypto-asset available on exchanges. As crypto-assets grew in popularity, however, exchanges began listing other crypto-assets as well and trading

² Bitcoin and other crypto-assets are also commonly referred to as "cryptocurrencies" regardless of whether they are commodities (as the term implies) or securities.

volumes expanded. In early 2013, daily Bitcoin trading volumes hovered between \$1 million and \$25 million. By the end of 2017, daily Bitcoin trading volumes ranged between \$200 million and \$3.8 billion, and reached over \$80 billion in 2022.

45. Ethereum is the second-most popular crypto-asset, with a market capitalization of approximately \$250 billion. Ethereum was designed to enable “smart contract” functionality. A smart contract is a program that verifies and enforces the negotiation or performance of a contract. Smart contracts can be self-executing and self-enforcing, which theoretically reduces the transaction costs associated with traditional contracting.

46. For example, a smart contract enables two parties to submit ether to a secure destination and automatically distribute the ether at the end of the month without any third-party action. The smart contract self-executes with instructions written in its code which get executed when the specified conditions are met. Since Ethereum first introduced the concept of smart contracts, many other companies have sought to create crypto-assets that improve on and compete with Ethereum in the smart contract ecosystem.

47. Interest in crypto-assets began to accelerate towards the end of 2016, with prices growing at a rate historically unprecedented for any asset class. Over the course of 2017 alone, Bitcoin’s price increased from approximately \$1,000 to approximately \$20,000. On January 1, 2017, Ethereum was trading at approximately \$8 per ether. Approximately one year later, it was trading at over \$1,400 per ether—a return of approximately 17,000 percent over that period.

48. This enthusiasm for crypto-assets prompted many entrepreneurs to raise funds through initial coin offerings, or ICOs. Between 2017 and 2018, ICOs raised nearly \$20 billion. None of these ICOs was registered with the SEC.

49. Token issuers typically released a “whitepaper” describing the project and terms of the ICO. These whitepapers advertise the sale of tokens or coins through the ICO. The whitepapers typically contained vastly less information than a registration statement filed with the SEC would include. For example, whitepapers do not typically include a “plain English” description of the offering; a list of key risk factors; a description of important information and incentives concerning management; warnings about relying on forward-looking statements; an explanation of how the proceeds from the offering will be used; or a standardized format that investors can readily follow.

50. More recently, another trend concerning crypto-assets has boomed. Over the past few years, the popularity of decentralized finance, known as “DeFi,” has exploded.³ DeFi “is an emerging financial technology based on secure distributed ledgers similar to those used by cryptocurrencies.”⁴

51. One increasingly popular application of DeFi is decentralized exchanges—crypto-asset exchanges that “facilitate peer-to-peer trading by relying on automated smart contracts to execute trades without an intermediary.”⁵ Decentralized exchanges commonly rely on “liquidity pools,” which provide “a mechanism by which users can pool their assets” in a decentralized exchange’s “smart contracts to provide asset liquidity for traders to swap between currencies.”⁶

³ <https://www.cnn.com/2021/09/17/how-decentralized-finance-works-and-why-its-taking-on-wall-street.html>

⁴ [https://www.investopedia.com/decentralized-finance-defi-5113835#:~:text=Decentralized%20finance%20\(DeFi\)%20is%20an,financial%20products%2C%20and%20financial%20services.](https://www.investopedia.com/decentralized-finance-defi-5113835#:~:text=Decentralized%20finance%20(DeFi)%20is%20an,financial%20products%2C%20and%20financial%20services.)

⁵ <https://www.gemini.com/cryptopedia/decentralized-exchange-dex-crypto#section-decentralized-exchanges-vs-centralized-exchanges>

⁶ <https://www.gemini.com/cryptopedia/what-is-a-liquidity-pool-crypto-market-liquidity#section-the-role-of-crypto-liquidity-pools-in-de-fi>

Specifically, a “liquidity pool is a crowdsourced pool of cryptocurrencies or tokens locked in a smart contract that is used to facilitate trades between the assets on a decentralized exchange.”⁷

52. In a liquidity pool, users “called liquidity providers (LP) add an equal value of two tokens in a pool to create a market. In exchange for providing their funds, they earn trading fees from the trades that happen in their pool, proportional to their share of the total liquidity.”⁸ For traders, liquidity pools provide a market for exchanging one type of crypto-asset for another.

II. SAFEMOON Tokens and SafeMoon’s Business

A. SAFEMOON Tokens

53. The SAFEMOON Token is a speculative crypto-asset created in early 2021 by Nagy and Smith. Specifically, the SAFEMOON Tokens are blockchain-based digital assets known as “BEP-20 tokens” that are created using the Binance Smart Chain mainnet blockchain, which is explained below.

54. In June 2017, Binance conducted an ICO of its own ERC-20 token, “BNB.” Binance then launched its crypto-asset exchange website on July 14, 2017. ERC-20 is an application standard that the creator of Ethereum, Vitalik Buterin, first proposed in 2015. ERC-20 is a standard that allows for the creation of smart-contract tokens on the Ethereum blockchain, known as “ERC-20 tokens.” ERC-20 tokens all function similarly by design—that is, they are compliant with the ERC-20 application standard. Some properties related to ERC-20 tokens are customizable, such as the total supply of tokens, the token’s ticker symbol, and the token’s name. All ERC-20 tokens

⁷ <https://www.gemini.com/cryptopedia/what-is-a-liquidity-pool-crypto-market-liquidity#section-the-role-of-crypto-liquidity-pools-in-de-fi>

⁸ <https://academy.binance.com/en/articles/what-are-liquidity-pools-in-defi>

transactions, however, occur over the Ethereum blockchain; none of them operates over its own blockchain. ERC-20 tokens are simple and easy to deploy. Anyone with a basic understanding of Ethereum can use the ERC 20 protocol to create her own ERC-20 tokens, which she can then distribute and make available for purchase. Even people without any technical expertise can have their own ERC-20 token created for them, which can then be marketed to investors.

55. As explained by Binance Academy, “Binance Chain was launched by Binance in April 2019.” And “Binance Smart Chain (BSC) is best described as a blockchain that runs in parallel to the Binance Chain. Unlike Binance Chain, BSC boasts smart contract functionality and compatibility with” Ethereum.⁹

56. Further, “BEP-20 is a token standard on Binance Smart Chain that extends ERC-20, the most common Ethereum token standard. You can think of it as a blueprint for tokens that defines how they can be spent, who can spend them, and other rules for their usage.”¹⁰ After a BEP-20 token is created, it can be traded, spent, or otherwise transacted with. On February 15, 2022, Binance announced that the Binance Smart Chain would become the “BNB Smart Chain.”¹¹

57. On March 8, 2021, SafeMoon launched its SAFEMOON Tokens on the Binance Smart Chain ecosystem. Starting on that date, the tokens were available to the public on decentralized crypto-asset exchanges, including the exchange known as “PancakeSwap.” As of December 2021, there were approximately three million SAFEMOON tokenholders.¹²

⁹ <https://academy.binance.com/en/articles/an-introduction-to-binance-smart-chain-bsc>

¹⁰ <https://academy.binance.com/en/glossary/bep-20>

¹¹ <https://www.binance.com/en/support/announcement/854415cf3d214371a7b60cf01ead0918>

¹² <https://watcher.guru/news/safemoon-will-cross-3-million-holders-by-december-2021>

58. The name “SafeMoon” is derived from the phrase “Safely To The Moon,” which suggests that the token is meant not to rise in price only but to rise in price safely.¹³ Notably, the term “moon” has a special meaning in the context of crypto-assets, where it “is often employed as a verb (mooning) to describe a cryptocurrency that is under a strong upward market trend.”¹⁴

59. Indeed, the SafeMoon Whitepaper (the “Long Whitepaper”), released before the SAFEMOON Token launched, is littered with space-themed imagery, including a full-page picture of an astronaut on the cover page.¹⁵ The Whitepaper explains that the protocol on which the SAFEMOON Token is built is designed “to drive the price to stratospheric all time highs” through so-called static rewards that “encourage[] holders to hang onto the their tokens,” and thus discourage selling.

60. According to the Long Whitepaper, the SAFEMOON Token’s protocol “employs 3 simple functions: Reflection + LP acquisition + Burn.” Each time a SAFEMOON Token is traded, “the transaction is taxed a 10% fee.” SafeMoon has stated that the purpose of this “tax” is to “encourage long-term holding” by disincentivizing existing tokenholders from selling their SAFEMOON Tokens.

61. Of the ten percent taxed from each transaction, half is purportedly transferred by SafeMoon into liquidity pools containing BNB, Binance’s token, and SAFEMOON Tokens. Specifically, of the 5% that is purportedly allocated to liquidity pools, 2.5% is sold by SafeMoon on the market for BNB. That BNB is placed into liquidity pools along with the remaining 2.5% of the

¹³ Benjamin Godfrey, What is SafeMoon and can the crypto newcomer reach the moon?, FORKAST (Nov. 26, 2021), <https://forkast.news/what-is-safemooncrypto-can-it-reach-the-moon/>

¹⁴ <https://academy.binance.com/en/glossary/moon>

¹⁵ <https://whitepaper.io/document/694/safemoon-whitepaper>

SAFEMOON Tokens. The purpose of the liquidity pools, according to the Long Whitepaper, is to “support[] the price floor of the token.”

62. The remaining five percent generated from SafeMoon’s ten-percent tax is “redistributed to all existing holders” by SafeMoon. These payments are referred to as “Reflections.” Arriaga has publicly compared these Reflections to stock dividends.

63. Critically, as explained in a separate whitepaper issued by SafeMoon (the “Short Whitepaper”), Reflections would be allocated pro rata among all tokenholders, including a “burn address,” *i.e.*, an address containing SAFEMOON Tokens that would be removed from circulation.¹⁶ The Long Whitepaper explained that, at launch, the total supply of SAFEMOON Tokens would be 1 quadrillion, but 223 trillion would be allocated to the “burn address.” As a result, at the outset, approximately 22% of all Reflections generated from each SAFEMOON Token transaction would be paid to the “burn address” and removed from circulation.

64. Because a certain percentage of each SAFEMOON Token transacted is “burned,” the supply of SAFEMOON is designed to decrease over time. Moreover, the protocol underlying SAFEMOON Tokens is designed to permit SafeMoon to engage in “manual burns” of SAFEMOON Tokens, meaning that SafeMoon can unilaterally destroy SAFEMOON Tokens, and thus reduce supply at will. According to the Long Whitepaper, “with the manual burn function and a depreciating supply, even a small holder at the beginning could potentially walk away with big money at the end of the token’s lifespan.” Indeed, immediately following that sentence, the Long Whitepaper includes a graph comparing supply and price, and showing that price rises steadily as

¹⁶ <https://safemoon.com/whitepaper.pdf>

supply decreases. The unmistakable intended inference is that the price of SAFEMOON Tokens will increase as the supply decreases over time.

65. Not only does the Long Whitepaper suggest that the price of SAFEMOON Tokens will increase over time, it claims that SafeMoon has a “Step-by-Step Plan to Ensure 100% Safety.” At step 1, “Dev Burned All Tokens in Dev Wallet Prior to Launch.” At step 2, there is a “Fair Launch on DxSale.” At step 3, the “LP Locked on DxLocker for 4 years.” At step 4, “LP Generated With Every Trade & Locked on Pancake.” The latter two steps indicate that SAFEMOON Tokens placed into the liquidity pools cannot be withdrawn by SafeMoon for a period of four years. Indeed, shortly after launching the SAFEMOON Tokens, SafeMoon similarly represented on its Twitter page that it had “locked” the liquidity pools, stating on March 19: “The moon just became even more #SAFU. Now completed is the 4 year lock on the second LP. We now have 2 locked LP expiring on May 1, 2025.” According to Binance Academy, “SAFU” stands for the Secure Asset Fund for Users and is used colloquially to mean “funds are safe.”¹⁷

66. Unlike some crypto-assets that have a real-world purpose (known as “utility tokens”), SAFEMOON Tokens have no real-world purpose. Nasdaq, for example, has noted: “[I]t doesn’t have any use cases or advantages over other cryptocurrencies.”¹⁸ Others have likewise observed that “Safemoon has no particular use.”¹⁹

¹⁷ <https://academy.binance.com/en/glossary/secure-asset-fund-for-users>

¹⁸ <https://www.nasdaq.com/articles/8-things-to-know-before-you-buy-safemoon-2021-07-10>

¹⁹ <https://forkast.news/what-is-safemoon-crypto-can-it-reach-the-moon/>

67. In addition, in contrast to decentralized crypto-assets like ether, 50% or more of SAFEMOON Tokens are owned by SafeMoon itself.²⁰ Moreover, as of early March 2022, the ten largest holders controlled nearly 30% of the supply of SAFEMOON tokens.²¹

B. SafeMoon's Role

68. In the beginning of 2021, Nagy recruited Smith for a new project and, together, they created the SAFEMOON token. Around that time, Nagy and Smith met with Karony and Haines-Davies to discuss a partnership regarding the sale of SAFEMOON tokens. Pursuant to that agreement, Nagy and Smith would work as the developers of the SAFEMOON token, while Karony and Haines-Davies would operate as the Company's management and marketing team. While Karony, Haines-Davies, and Smith would publicly tout the SAFEMOON tokens, Nagy—the creator—opted to keep his identity a secret, using the alias "SafeMoonDev." By around March 2021, this core group of Nagy, Smith, Karony, and Haines-Davies had expanded to include Defendants Wyatt and Witriol.

69. SafeMoon describes itself as a "human-focused technology and innovation business expanding blockchain technologies for a brighter tomorrow." It purports to build "blockchain, commerce, metaverse and NFT products to derive new kinds of value from crypto technology and to apply it to increasingly better use."²²

²⁰ <https://www.business-powerhouse.com/what-is-safemoon-and-why-is-it-taking-crypto-market-by-storm>

²¹ <https://coinmarketcap.com/currencies/safemoon/holders/>

²² <https://safemoon.com/>

70. As of early March 2022, SafeMoon has two products.²³ The first is a wallet, called the SafeMoon Wallet, which provides a “secure place to store and trade your SafeMoon.” The second is the “SafeMoon Protocol Contract.” SafeMoon’s website indicates that SafeMoon plans to launch two additional products in the future, a “hardware ‘cold’ wallet for safely storing and using your crypto” and an “exchange” that “will bring tokenomics to all of crypto on its platform.”

71. The SafeMoon Protocol Contract is the software on which the SAFEMOON Token runs. SafeMoon is responsible for writing, maintaining, modifying, and implementing that software. For example, in May 2021, CertiK performed an audit of the software. In response to certain critiques and flaws identified by the auditors, SafeMoon indicated the extent to which it would modify code and make other changes to address those critiques and flaws, thereby demonstrating its control over that software.²⁴

72. In addition, in December 2021, SafeMoon launched an updated protocol for a second version of the SAFEMOON Tokens, or “V2.”²⁵ For example, in the updated version, SafeMoon changed the allocation of the 10% tax. Under V2, Reflections are reduced to 4% and the amount distributed to liquidity pools is reduced to 3%.²⁶ The remaining 3% are allocated between tokens that are “burned” (2%) and tokens that are allocated to SafeMoon’s “Growth Fund” (1%). The Growth Fund is used to cover SafeMoon’s costs, including “development for future technology or server expansion on the up and coming SafeMoon Exchange.”²⁷

²³ <https://safemoon.com/products>

²⁴ <https://www.certi.k.com/projects/safemoon>

²⁵ <https://capital.com/safemoon-sfm-price-prediction>

²⁶ <https://safemoon.com/>

²⁷ <https://www.safemoon.education/safemoon-tokenomics>

73. SafeMoon is also responsible for marketing SAFEMOON Tokens, which it does relentlessly on social media. SafeMoon stated on its Instagram account on April 4, that its “Marketing campaign” had begun. Indeed, as CoinDesk notes, SafeMoon is “shilled endlessly on Twitter.”²⁸ SafeMoon has explained on Twitter that it has a “small dedicated marketing team.”

74. In addition to marketing SAFEMOON tokens and developing and launching its products, SafeMoon is also responsible for securing exchange listings, and thus markets, for SAFEMOON Tokens. For example, on March 17, Karony noted that they had “talked with WhiteBit,” an exchange. On April 2, Karony announced via Twitter that SafeMoon’s team had “[b]een working our A**’s off for the #SafeMoon community day and night” and that he was “[g]lad to finally be able to share the good news regarding @WhiteBit6 and @BitMartExchange listings.” On April 5, Karony tweeted: “Binance next. I’m giving the #SAFEMOON community 120% of my energy until we hit the moon and I’ll never stop.”

III. Defendants Solicited Sales of SAFEMOON Tokens

A. SafeMoon Solicits Sales of SAFEMOON Tokens Online

75. SafeMoon’s homepage, safemoon.com, promotes the sale of SAFEMOON Tokens. That page, which includes a video of a Rocketship taking off in the background, prominently displays a button that enables visitors to “Buy” SAFEMOON Tokens, as well as another button that explains “How to Buy” SAFEMOON Tokens.

76. Clicking the “How to Buy” button leads to a “Buying Guide,” which outlines four steps for purchasing SAFEMOON Tokens. The first step is to “Create a Wallet.” The second step

²⁸ <https://www.coindesk.com/markets/2021/05/18/dave-portnoy-just-wants-to-have-fun/>

is to “Purchase BNB.” The third step is to “Swap BNB for SafeMoon.” The fourth (and final) step is to “HODL!” At that point, according to the guide, “All that’s left now is to HODL and see your balance grow from reflections!”

77. As explained by Binance Academy, “HODL is a term commonly used by cryptocurrency investors that refuse to sell their cryptocurrency regardless of the price increasing or decreasing.”²⁹

78. Beginning in March 2021, SafeMoon—through its Twitter page and other social media platforms—promoted itself and SAFEMOON Tokens. As a result of these promotions, as well as celebrity endorsements described further below, the volume of SAFEMOON Tokens traded on a daily basis exploded from approximately \$150,000 on March 9 to over \$240 million on May 19. The tweets catalogued below are just a sample of the many, many tweets from SafeMoon and its executives promoting SAFEMOON Tokens and other SafeMoon products over that period and the months that followed. Indeed, in its short existence, the SafeMoon Twitter account has tweeted 1,581 times.

79. On March 1, 2021, SafeMoon’s Twitter account tweeted for the first time. The tweet stated: “Welcome to the show... Stick around for some amazing things.” On March 6, 2021, SafeMoon’s Twitter account announced a “Flash Giveaway” of 100 billion SAFEMOON tokens to “5 lucky winners who” (i) “Follow @safemoon and @defishiller,” (ii) “Like and RT,” and (iii) “Tag 3 friends!” The tweet stated: “Grab a big bag of \$SAFEMOON ... We are just getting started! Now listed on #PancakeSwap!”

²⁹ <https://academy.binance.com/en/glossary/hodl>

80. In the second half of March, as further discussed below, SafeMoon retweeted a number of endorsements from celebrities. During that same period, SafeMoon tweeted instructions on how to buy SAFEMOON tokens, the amount of SAFEMOON Tokens that had been burned to date, and updates regarding the number of Twitter users that were following SafeMoon's account. Given the Long Whitepaper's reference to decreasing supply resulting in higher prices, SafeMoon's tweets regarding the amount of SAFEMOON Tokens burned were clearly intended to imply that the price of SAFEMOON Tokens would increase.

81. On April 3, SafeMoon tweeted: "396,384,506,514,787 BURNT." In response, Karony tweeted: "New ATH .. Check. Continual burns .. also check. Moon... #Imminent." The acronym "ATH" refers to all-time high price. The same day, Karony tweeted: "Amazing! Almost a 1 Billion Dollar market cap!!!" The same day, SafeMoon tweeted: "Next week we put together our plan of action to list on #Binance." Binance is the world's largest crypto-asset exchange by trading volume.

82. On April 5, SafeMoon announced via Twitter that SAFEMOON Tokens would be listed on BitMart, a crypto-asset exchange. In response to that announcement, Karony tweeted: "It has been a bunch of long nights for the team, but it's amazing to see the results." That day, Karony also tweeted: "I'm giving the #SAFEMOON community 120% of my energy until we hit the moon and I'll never stop."

83. On April 14, SafeMoon's Twitter account posted a short video titled "How to Hold #SAFEMOON," which explained the process of buying SAFEMOON Tokens. The same day, the account stated that SAFEMOON was "[t]he number 1 searched Cryptocurrency in the world within the last 30 days."

84. On April 15, SafeMoon's Twitter account posted that there were then "400K HOLDERS!" The following day, SafeMoon posted an image titled "ALL #SAFEMOON HOLDERS RIGHT NOW." The image included three charts—one titled "Bull Market," one titled "Bear Market," and the third titled "Moon Market." The third chart included a vertical line, indicating that the price was going straight up. That day, the account also posted a screenshot of a text exchange in which one person explains to another that, with SAFEMOON tokens, "[t]he longer you hold the more you get rewarded."

85. On April 17, SafeMoon's Twitter account posted an image titled "WHY HOLDING REWARDS YOU." The image was a graph indicating that "Tokenomics Growth" increases exponentially with "Holding Time." The same day, SafeMoon's Twitter account announced that there were then "500k HOLDERS."

86. On April 18, SafeMoon's Twitter account stated that SAFEMOON was the "NUMBER 1 SEARCHED CRYPTO IN THE WORLD," and indicated that, less than fifty days in, 400 trillion SAFEMOON tokens had been burned, there were 500,000 tokenholders, there were 100,000 Twitter followers, and the market capitalization for SAFEMOON tokens was \$1.1 billion. By the end of that day, SafeMoon's Twitter account had 150,000 followers. SafeMoon's Twitter account also announced that day that there were "2 New exchange listings on the horizon," that there were "a lot of exchanges reaching out to list #SAFEMOON," and that SafeMoon would "only make the right choices to benefit HOLDERS."

87. On April 19, SafeMoon's account tweeted: "ARE YOU A #SAFEMOON HOLDER." The next day, SafeMoon tweeted a video, indicating that there were 700,000 holders, 200,000 Twitter followers, that SAFEMOON was the "No. 1 searched crypto," and that it was

“trending” on Twitter “every day.” Also on April 20, SafeMoon tweeted: “Let’s take a bull to the #SAFEMOON” and posted a picture stating “SAFEMOON BULL RUN” and “ONLY A MATTER OF TIME.” SafeMoon also tweeted that day “DUMMY PROOF” instructions for “How to Acquire #SAFEMOON,” and indicated that there were then 800,000 followers but that trading volumes were so high that “Binance smart chain #BSC broke.”

88. On April 21, SafeMoon tweeted that there were then “900K HOLDERS” and “300K FOLLOWERS.” SafeMoon also announced via Twitter that there was a “NEW LISTING,” indicating that SAFEMOON Tokens would be listed on MXC. In response to a significant price decrease that day, SafeMoon tweeted: “That wasn’t a dip today... we went back to earth for a bigger rocket and more passengers.” (emojis omitted). Haines-Davies retweeted that message. By the end of the day, SafeMoon tweeted that there were 1 million SAFEMOON tokenholders. SafeMoon also tweeted that day: “Rome wasn’t built in a day, #SAFEMOON was.”

89. On April 22, in response to continuing price volatility, Witriol tweeted: “Hey #SAFEMOON It’s all a part of the process! Sit back and relax!” Referencing a popular 1990s song, he then tweeted: “We #hodl they hatin’ patrolling, trying to catch me ridin’ dirty.” The same day, SafeMoon tweeted: “WHO’S HOLDING?!” and “In other words HOLD ON TIGHT.” SafeMoon also tweeted: “We won’t let any TROLL, HATER, FUD³⁰ SPREADER on this ship,” and that the SAFEMOON token was “52 DAYS OLD,” there were “1.1 Million HOLDERS” and “340k followers,” that SAFEMOON was “Trending 5 days in a row,” that “410 Trillion Tokens” had been burned, and that the “Market cap Reached \$5 Bil.” In addition, SafeMoon announced via Twitter

³⁰ The acronym “FUD,” explained further below, stands for “Fear, Uncertainty, and Doubt.”

that “#SAFEMOON is listed on @ZBG_Exchange Fully tradable in 24HR.” SafeMoon retweeted the following tweet from “MisterCrypto”: “Once the Market gets back to normal guess what?!! #safemoon will be on the 3rd Exchange that has the highest Volume of trading per day! Let that sink in for a min now breath and let those diamond hands Shine.” “Diamond hands” refers “to holding a volatile investment even when there’s pressure to sell.”³¹

90. On April 22, Karony tweeted: “I think we are setting a records for speeds and longest times without sleep” and “The team and I have been working hard all night on a multitude of tasks.” Karony revealed later that day that SafeMoon’s team was working on getting SAFEMOON tokens listed on ZBG.

91. On April 23, SafeMoon announced via Twitter that SAFEMOON tokens would be listed on crypto-asset exchanges Gate.io, Hotbit, and LetsExchange. As part of its announcement regarding LetsExchange, SafeMoon tweeted: “[Y]ou can now trade #SAFEMOON for any coin listed by Let’s Exchange including” Bitcoin and other well-known crypto-assets. That day, SafeMoon tweeted an old post from someone named Greg Shoen that stated: “I wish I had kept my 1,700 BTC @ \$0.06 instead of selling them at \$0.30, now that they’re \$8.00.” Above that post, SafeMoon tweeted: “Wonder how many Gregg’s happened over the last 48 hours #SAFEMOON don’t be Gregg.” Karony indicated via Twitter on that day that he had been “[w]orking all day” to get SAFEMOON tokens listed on LetsExchange.io.

³¹ <https://www.fool.com/investing/stock-market/market-sectors/financials/cryptocurrency-stocks/diamond-hands/#:~:text=%22Diamond%20hands%22%20is%20a%20slang,as%20cryptocurrency%20and%20meme%20stocks>

92. On April 24, SafeMoon tweeted once again “HOW TO ACQUIRE #SAFEMOON.” SafeMoon announced via Twitter that day that there were then 1.3 million holders, and made a number of other optimistic statements regarding the price of SAFEMOON tokens, including “What lives on the moon safely . . . someone who HOLDS #SAFEMOON” and “Feeling BULLISH.” SafeMoon tweeted that day that it was “THIS WEEKS MOST VIEWED CRYPTO CURRENCY according to [CoinMarketCap]” and was “the MOST VIRAL CRYPTO CURRENCY on the planet.”

93. On April 25, SafeMoon tweeted: “41% of the total #SAFEMOON has been BURNED GONE! NEVER COMING BACK.” (emojis omitted). SafeMoon announced that day via Twitter that it had “400k FOLLOWERS” and, the following day, that “Exchanges are flooding through the doors ready to list safemoon, bigger ones are taking longer but worth the wait, regardless all credible and in the top 50.”

94. On April 26, SafeMoon tweeted: “We can see the moon, HOLD on it’s about to get exciting” and posted instructions for obtaining SAFEMOON tokens on Pancake Swap.

95. On April 27, SafeMoon tweeted that SAFEMOON was the “fastest growing crypto on the planet” and that, in sixty days, it was “already listed on 6+ Exchanges with 3bil+ Market cap!”

96. On April 28, SafeMoon announced via Twitter that it would soon be on the Burency Exchange, “the Biggest Crypto trading platform in Middle East.”

97. On April 29, SafeMoon once again tweeted instructions for how to acquire SAFEMOON tokens, stating that it was “now available on 7 EXCHANGES” and was “Still number 1 searched crypto in the world 7 days in a row.” That day, SafeMoon also announced that there were

then “1.4 MILLION HOLDERS.” Karony tweeted on that day: “Jack and I are working to get SafeMoon everywhere.”

98. On April 30, SafeMoon tweeted: “WOW! 1.5 MILLION #SAFEMOON HOLDERS!... THE MOON IS IN SIGHT.”

99. On May 1, SafeMoon tweeted instructions for “The QUICKEST way to HOLD #SAFEMOON via @MXC_Exchange” and asserted, via Twitter, that “IF YOU HOLD #SAFEMOON YOU ARE GROWING DAILY FROM TOKENOMICS . . . UP OR DOWN YOU’RE STILL GOING UP IN TOKENS.”

100. On May 5, SafeMoon tweeted an image titled “SAFEMOON TOKENOMICS.” It showed a variety of cars, boats, and planes placed along an upward sloping line graph. In the top right corner, on top of the line graph, there was a Rocketship.

101. On May 6, SafeMoon announced via Twitter that there were then 1.6 million tokenholders and 500,000 Twitter followers. That day, SafeMoon tweeted a short promotional video, with the following words flashing on the screen: “SAFEMOON,” “Most Viral Crypto,” “Big Upcoming Projects,” “8 New Exchanges,” “Tokenomics” “Rewards, More Every Day,” “1,500,000 Holders,” “Certik Audit Approved, “412 TR Burnt,” “500k Twitter Followers,” and “SafeMoon Wallet Coming Soon.”

102. On May 8, SafeMoon tweeted an image that stated: “Don’t put your eggs in one basket ... Keep them in a safe.” The next day, SafeMoon announced that there were then 1.8 million SAFEMOON tokenholders. That day, Karony tweeted: “I hope everyone has figured out that #SAFEMOON isn’t just a crypto, it’s an evolution.”

103. On May 10, SafeMoon re-posted a video with instructions on “HOW TO ACQUIRE #SAFEMOON.” Above the video, SafeMoon tweeted: “We see a lot of new holders looking to join #SAFEMOON but ask ‘how do I buy safemoon’ can we ask you RT and spread the word for the ones who need a little guidance.” That day, SafeMoon also tweeted a video of a billboard in Times Square advertising SafeMoon as “The World’s Fastest Growing Cryptocurrency.” That day, the trading volume for SAFEMOON Tokens increased to approximately \$195 million; the previous day, it was \$140 million.

104. On May 11, SafeMoon announced another exchange listing and that there were then 1.9 million SAFEMOON tokenholders. On May 15, SafeMoon announced via Twitter that it had 700,000 followers.

105. On May 18 and 19, SafeMoon announced that SAFEMOON tokens would be listed on two additional exchanges, and posted another video on “HOW TO ACQUIRE #SAFEMOON.” On May 19, SafeMoon also tweeted: “JUST POPPING BACK TO PICK UP SOME MORE HOLDERS,” “WHO’S HOLDING?!” and “What goes up must go down... and what goes down MUST GO UP!” The price of SAFEMOON tokens had fallen sharply that day. In addition, SafeMoon tweeted on May 19: “SHOUTOUT TO ALL DIAMOND HANDS!” and “HOLDING IS REWARDING WITH TOKENOMICS.” Karony likewise tweeted that day: “It was days like these that shook out a lot of early BTC folks. I got Hardman Hands for all crypto.”

106. On May 20, Karony provided a list on Twitter of exchanges that had listed SAFEMOON tokens, as well as a list of exchanges that had not yet listed the tokens. With respect to exchanges in the latter category, he stated: “We will continue to work with their listing and tech

teams to get tokenomics implemented.” On May 22, SafeMoon announced via Twitter that it had 800,000 followers and that there were then 2.25 million SAFEMOON tokenholders.

107. On May 26, SafeMoon announced that there were then 2.5 million SAFEMOON tokenholders and tweeted an image that stated: “BULLISH OR BEARISH TOKENOMICS WINS.”

108. On May 31, SafeMoon announced via Twitter that another exchange, bitbns, had listed SAFEMOON Tokens, and tweeted an image captioned “NO RUG PULLS HERE.” (A “rug pull” is “a malicious maneuver in the cryptocurrency industry where crypto developers abandon a project and run away with investors’ funds.”³²)

109. On June 3, with both the price of SAFEMOON Tokens and the trading volume significantly lower than it had been just a few weeks earlier, SafeMoon tweeted “HOLDING IS REWARDING” and “WE’RE ALL IN THIS TOGETHER!” On June 8, SafeMoon tweeted, once again, instructions for “WHERE AND HOW TO ACQUIRE #SAFEMOON” and instructed its many followers to “Like and RT to spread the word.” That day, SafeMoon also tweeted: “WHEN YOU UNDERSTAND THE VALUE OF HOLDING #SAFEMOON THE REST IS HISTORY.”

110. On June 16, with price and volume continuing to lag, SafeMoon tweeted an image captioned: “WE’RE REACHING THE MOON TOGETHER.” The image was an upward sloping graph that was being climbed by people with increasingly large bags of money. The next day, SafeMoon announced that tokens would be listed on another exchange.

³² <https://coinmarketcap.com/alexandria/glossary/rug-pull>

111. On June 24, SafeMoon tweeted: “ONLY DIAMOND HANDS WILL MAKE IT TO THE #SAFEMOON.” On July 4, SafeMoon tweeted instructions for “HOW TO ACQUIRE #SAFEMOON WITH @MetaMask.”

112. On July 12 and 13, SafeMoon tweeted: “WHO’S HOLDING? And “DIAMOND HANDS ONLY.” On July 13, SafeMoon posted a video of animated bulls running. At the end of the video, the words “Bull Run” were shown. Above the video, SafeMoon tweeted: “WHO’S THINKING WHAT WE’RE THINKING.” And on July 19, SafeMoon tweeted an image indicating that SAFEMOON tokens were the “MOST HELD TOKENS ON BINANCE SMART CHAIN.”

113. On August 16, SafeMoon tweeted: “SHOUTOUT TO ALL DIAMOND HANDS,” “LET’S DO THIS #SAFEMOON1MILLION LIKE AND RT AND FOLLOW,” and “IF WE HIT 1 MILLION . . . MARKETING WILL ‘CONSIDER’ STOP USING CAPS.” On August 19, SafeMoon tweeted: “1 MILLION #SAFEMOON FOLLOWERS! 2.7 MILLION #SAFEMOON HOLDERS!”

114. On August 27, SafeMoon retweeted a tweet from Karony that stated: “Buy button.” The following day, SafeMoon tweeted: “The #SAFEMOON BUY BUTTON” and posted a video advertising SafeMoon’s crypto wallet, which would, according to the video, include an “in app buy button.”

115. On September 13, SafeMoon announced on Twitter that the SafeMoon Wallet was “LIVE on Google Play!!” SafeMoon’s tweet included a link to download the app.

116. On October 6, SafeMoon tweeted that the SafeMoon Wallet was “LIVE on iOS.” SafeMoon’s tweet included a link to download the app.

117. On October 7, SafeMoon tweeted: “In the last 12 hours the #SAFEMOONWALLET rocketed up the App Store chart” to “#10 in the US.”

118. On October 16, SafeMoon tweeted: “Only diamond hands hold the #SAFEMOONWALLET.” The next day, SafeMoon announced via Twitter that there had already been “350,000+ downloads for #SAFEMOONWALLET between iOS and Android.” On October 29, SafeMoon announced that there had been 400,000+ downloads, and on October 31, SafeMoon announced that there had been 500,000+ downloads and more than 100,000 new SAFEMOON tokenholders in the last 24 hours. On November 6, SafeMoon announced via Twitter that there were then 2.85 million SAFEMOON tokenholders.

B. SafeMoon and Karony Promote SafeMoon Through Celebrity Endorsements

119. Since March 2021, SafeMoon and Karony have promoted SAFEMOON Tokens with celebrity endorsements. Upon information and belief, SafeMoon coordinated with a group of celebrities to secure their promotion of SAFEMOON Tokens and create the demand necessary for the price of SAFEMOON Tokens to increase. At least one social media personality, Ben Baller, has admitted that SafeMoon offered him 1 billion SAFEMOON Tokens in exchange for promotion efforts.

120. In addition, many of SafeMoon’s celebrity promoters either have relationships with each other, or with current or former SafeMoon executives. For example, as reported in Protos, “Haines-Davies managed UK-based YouTuber Ben Phillips from November 2017 until March 2021.”³³ Upon information and belief, Phillips—who frequently promoted SAFEMOON Tokens in

³³ <https://protos.com/safemoon-fbi-ties-ponzi-games-crypto-protocol-dave-portnoy-shill/>

March and April 2021, and who has 750,000 followers on Twitter—was also dating Haines-Davies’ sister while he was promoting SAFEMOON Tokens. In addition, Phillips and another SAFEMOON Token promoter, Jake Paul, have reportedly “discussed creating a cryptocurrency” together,³⁴ and Paul and fellow SafeMoon promoter Dave Portnoy are long-time collaborators, with Paul appearing in a “Team Portnoy” video in 2017.³⁵

121. Phillips, who has 750,000 followers on Twitter, began tweeting about SafeMoon no later than March 20, at which point SAFEMOON Tokens had just launched and had a trading volume of less than \$4 million. He has since deleted many, if not all, of his tweets about SafeMoon.³⁶

122. That day, March 20, Phillips tweeted: “I keep seeing #SafeMoon everywhere anyone know about it? Is it gonna pop? Or... has it got Big #Doge energy.” Three days later, he tweeted: “I LOVE #SAFEMOON.” Given Phillips’ relationship with both Haines-Davies and Haines-Davies’ sister, it is inconceivable that Phillips discovered SafeMoon on his own or was legitimately seeking to learn information about SAFEMOON Tokens. On March 25, Phillips formally joined the SafeMoon team.³⁷

123. On March 27, after tweeting about SafeMoon twice on the previous day, Phillips tweeted: “Just want to make something clear #SafeMoon is making moves, the team are very bright,

³⁴ <https://www.forbes.com/sites/billybambrough/2021/02/17/exclusive-youtube-star-jake-paul-discussed-creating-own-cryptocurrency-as-Bitcoin-and-dogecoin-mania-spreads/?sh=3d7d62591b21>

³⁵ <https://www.youtube.com/watch?v=UoGAI-VwTt0>

³⁶ Phillips’s deleted tweets are, however, still available here: https://en.whotwi.com/BenPhillipsUK/tweets/hashtag/SAFEMOON?only_popular=&page=3.

³⁷ https://www.reddit.com/r/SafeMoon/comments/md6gew/ama_news_ben_phillips_has_been_added_to_the/

the coins not even listed yet.” The same day, Karony retweeted a tweet and picture from Youtube personality Jake Paul (4.2 million followers on Twitter). Paul’s tweet stated: “Everyone needs #SAFEMOON or this will be you.” Below that statement, Paul included a picture of a man appearing to cry. Next to the text, he included an image of a graph with an upward sloping line. Paul used that same image of a graph with an upward sloping line in subsequent Twitter posts about SafeMoon, including on April 3, when he claimed to have “Predicted DOGE,” to have “Predicted SIA,” and have “Predicted SAFEMOON,” and on May 15, when he claimed “A year ago I talked about \$DOGE before Elon,” “3 months ago I talked about #SAFEMOON,” and “Now I’m talking about \$YUMMY.”

124. On March 29, Karony retweeted a tweet from musician Lil Yachty (5.4 million followers on Twitter). Lil Yachty’s tweet stated: “#safemoonisthenewdogecoin.” In response to Lil Yachty’s tweet, Paul tweeted: “factssss.” At the time, Dogecoin had increased in value from \$0.010 to \$0.054 since January 1, 2021. SafeMoon personnel continued to tweet “#safemoonisthenewdogecoin” in the weeks that followed, presumably to suggest that SAFEMOON Tokens would sharply increase in price in the same way that Dogecoin had increased in price (Witriol, for example, tweeted “#safemoonisthenewdogecoin” on April 18 and 22).

125. On March 31, Karony retweeted another tweet from Lil Yachty, which stated: “#SAFEMOON #SAFEMOON #SAFEMOON.” The same day, Karony retweeted a tweet from YouTube personality Keemstar (2.7 million followers on Twitter), which stated: “#SAFEMOON.” Throughout April, Keemstar continued to tweet about SAFEMOON Tokens. For example, on April 6, he stated: “if you notice the amount of coins are different that’s because you gain more #SafeMoon coins by holding. It’s kind of like dividends.” On April 18, he stated: “Truly believe in

#SAFEMOON & not for this quick boom. I'm long. People at @safemoon are doing some much good stuff. Love the roadmap. Huge community already. Feels like the start of something huge. In a world of 100,000 new crypto coins. This one sticks out!" On April 20, he stated: "Omg I just checked my #SAFEMOON!!!! BRO WE ARE ALL RICH!!!! Never seen anything like this!!!" Keemstar has previously admitted to "scamming people with crypto coin."

126. Also on March 31, Karony retweeted a now-deleted tweet from Phillips, and stated: "Congrats to the winners! #SAFEMOON." Phillips's deleted tweet stated: "GIVING AWAY 10 BILLION #SAFEMOON TOTAL in the next 48 hours! Just follow @safemoon and myself!"

127. On April 18, Karony retweeted a tweet from YouTube personality Lance Stewart (who has 800,000 followers on Twitter). Stewart's tweet stated: "#SAFEMOON is my new favorite crypto, it's literally a fraction of a penny and gains are through the roof!!" The same day, Karony retweeted a tweet from musician Nick Carter (670,000 followers on Twitter). Carter's tweet stated: "#SAFEMOON" and linked to his 2011 song "I'm Taking Off." Carter had tweeted the previous day about SafeMoon, too, posting a video of himself taking off on a Rocketship and indicating that the number of SAFEMOON tokenholders had increased by one (from 500,000 to 500,001). The caption for the video was "It's time for blastoff #SAFEMOON."

128. Around this time, musician Soulja Boy (5.4 million followers on Twitter) began tweeting about SafeMoon. On April 17, for example, he tweeted his "Public Address to Receive SAFEMOON"; SafeMoon tweeted a video about "[h]ow to acquire safemoon" in response. And on April 19, he tweeted "Safemoon." Notably, around this time, Soulja Boy inadvertently disclosed

that he was receiving incentive payments to promote a very similar crypto project called SaferMars:

“They raising 240k, if they raise it after you tweet – will get you 24k.”³⁸

129. On April 22, Karony retweeted a tweet from Dutch DJ Afrojack (2.5 million followers on Twitter) about SafeMoon. On April 30, Karony retweeted a tweet from NFL player Demarious Randall (129,000 followers on Twitter) about SafeMoon. Mr. Randall’s tweet stated: “#SAFEMOON to the Moon.” And on April 30, Karony retweeted a tweet from NFL player Sidney Jones (101,000 followers on Twitter) about SafeMoon. Mr. Jones’s tweet stated: “TEAM #SAFEMOON!!!”

130. On May 14, claiming to be “THE CRYPTO KING,” musician Juicy J (2.8 million followers on Twitter) tweeted: “I got safemoon.” The previous day, he had tweeted “Safemoon” with the image of three bags of money next to that text, to which Paul responded: “YOU SAY NO TO SAFEMOON JUICY J CANT CANT CANT CANT.” And on May 17, Juicy J tweeted “Safemoon cash to the moon.”

131. On May 14, Karony retweeted a video of the musician Diplo performing in front of a SafeMoon logo. Diplo had captioned the video: “Confirmed. #safemoon.” On May 15, Karony retweeted a tweet from musician Zoltan Bathory mentioning SafeMoon. Bathory’s tweet featured pictures of Ferraris.

132. On May 17, Karony retweeted a video from Dave Portnoy about SafeMoon. In the video, which Portnoy acknowledges was watched by at least 1.5 million people that day and which was featured on Fox Business the following day, Portnoy states: “If it is a Ponzi, get in on the ground

³⁸ <https://www.coindesk.com/policy/2021/05/27/soulja-boy-tells-em-he-got-paid-to-tweet/>

floor. To the Moon, safely we go.” He further discloses that he had purchased \$40,000 in SAFEMOON Tokens and that “he will not sell in the near future.” Portnoy tweeted later that day: “Ps - #safemoon is up 25% since I adopted it” and “Rules of #SAFEMOON”: “Always tell people you bought it,” “Never sell it,” “Get pucks in deep,” and “Make memes.” These tweets reached a broad swath of the public—as of March 2022 Portnoy’s Twitter feed has over 2.7 million followers.

133. In response to Portnoy’s announcements regarding his investment in SAFEMOON Tokens, a well-known social media personality in the finance and crypto space, WSBCChairman, criticized Portnoy: “You are one of the biggest financial influencers in the world. People can lo[]se their homes or lives from the shit you’re promoting.” Portnoy dismissed the criticism and posted a video imitating his critics as crying and stated: “Yo, buddy. Get yourself fucking together. I didn’t fucking say anything. Why so like fucking mean and crying like a baby.”

134. Around this time, Portnoy made numerous posts and videos about SafeMoon. On May 18, for example, Portnoy stated that he was looking into having his company, Barstool Sports, accept SAFEMOON Tokens. On May 19, he tweeted, with respect to his stake in SAFEMOON: “I’m in it for the long haul anyway. #DiamondHands.” On May 23, he tweeted: “I only buy. Never sell.”

135. Portnoy continued tweeting about SafeMoon through August 2021. On June 14, he tweeted: “#safemoon.” On August 18, in response to a question from “Cypto Granny” as to whether he still held SAFEMOON tokens, Portnoy tweeted an image of his wallet, indicating that he held 4.5 billion SAFEMOON tokens. And on August 28, he tweeted: “#safemoon is going parabolic.” On September 2, Portnoy stated on Fox Business that he was not going to sell his SAFEMOON tokens.

C. SafeMoon Relentlessly Attempts to Dispel So-Called “FUD” Online

136. Around May 2021, in the wake of price volatility, commentators began to raise concerns that SafeMoon was a Ponzi Scheme. For example, on May 19, *Fortune* noted: “Critics, though, have taken aim at SafeMoon, saying the team that owns it owns the majority of the liquidity and have likened it to a Ponzi scheme.”³⁹ The same day, an article on *Protos* stated: “But what SafeMoon resembles most is the crypto-powered Ponzi games once popular on Ethereum, like Proof-of-Weak Hands 3D (PoWH3d). These games—which are now bleeding into the Binance Smart Chain ecosystem—are designed to mimic real-life Ponzi schemes.”⁴⁰ An article from May 30 in *Entrepreneur* likewise observed:

SafeMoon has also been compared to Bitconnect, which turned out to be nothing but a Ponzi Scheme, where any profits made in the future would be based on someone paying more for the token than you did further down the line. This would mean that early adopters would be the main beneficiary of the system, leaving only the scraps for late joiners. As cryptocurrency investor and influencer Lark Davis said: “Remember, just because you make money off a Ponzi does not change the fact that it is a Ponzi.”⁴¹

137. In response to these and similar criticisms, Arriaga launched a YouTube channel in which he posted a series of videos under the moniker “The FUD Hound.” As Arriaga explained, his channel was to be “dedicated to exposing opportunists and shillers of FUD.” In the crypto space, the term FUD refers to “Fear, uncertainty, and doubt” and “describes the act of spreading dubious or false information about a business, startup, or cryptocurrency project. The term is also used to

³⁹ <https://fortune.com/2021/05/19/crypto-crash-safemoon-price-fluctuations-volatility-cryptocurrency/>

⁴⁰ <https://protos.com/safemoon-fbi-ties-ponzi-games-crypto-protocol-dave-portnoy-shill/>

⁴¹ <https://www.entrepreneur.com/article/372691>

describe a set of negative sentiment that spreads around traders and investors when bad news comes out or when the market presents a strong bearish downtrend.”⁴² Although Arriaga’s channel was purportedly intended to dispel FUD generally, his videos were simply promotions for SafeMoon. Indeed, each of Arriaga’s six videos as “The FUD Hound” sought to rebut a particular video or article criticizing SafeMoon.

138. In his first video, titled “Safemoon Redeemed,” Arriaga proclaimed:

My mission is to analyze and expose those that use FUD to manipulate you for their own personal gain. Now I came across this video on Youtube and I was shocked at how inaccurate, sloppy, and fallacious this person’s arguments were when concerning a new popular cryptocurrency called SAFEMOON. SAFEMOON, if you haven’t heard, is absolutely killing it on the headlines and is gaining organic steam like we haven’t witnessed since Bitcoin. But with that comes a whole lot of predators and opportunists that will emerge from the shadows and ride the coattails of a movement to try to be seen and heard, no matter the damage they cause. So without further ado, let’s have a few good laughs at the discredited points this Youtuber makes regarding SAFEMOON being a Ponzi Scheme.

139. In the video, Arriaga mocks the critic and claims that he “doesn’t understand basic finance or basic financial markets.” Arriaga proceeds to analogize SAFEMOON tokens to stocks, asserting that, like a stock, SafeMoon *cannot* be a Ponzi Scheme, because the value of tokens will also rise if the project succeeds:

Look at any asset class in the world. You can well define it as a Ponzi scheme, however you can’t with stocks because they’re based on intrinsic value. They’re based on the intrinsic value of a company. So as the company does well and it releases features, guess what? The stock goes up. As the company does bad or has bad PR, the stock goes down. Now, just because you got into a company before IPO does that mean that you got into a Ponzi scheme? No, no, that actually doesn’t. Now you don’t need your Series A to understand this very basic

⁴² <https://academy.binance.com/en/glossary/fear-uncertainty-and-doubt>

concept. So when you don't understand finance like this person right here and then you throw up a video on YouTube so you can try to ride the coattails of a movement and pick up subscribers along the way, doesn't really make you right, it just makes you wildly inaccurate and shows that you don't know anything about finance. . .

I wouldn't call SafeMoon a Ponzi Scheme because SafeMoon has intrinsic value. You can see it on the road map. Just like any other startup in the world. For example, just because I raise money for my startup based on a business plan and I have no company built yet, do you think that that the investors who invested in me are going to call me a Ponzi Scheme in the time that it takes me to actually build out a technological product or build out a product? No, they're not going to call me a Ponzi Scheme, they're going to say, hey, you need the capital so you can start building your vision, so you can start building those features. This is the exact same thing that cryptocurrency allows new entrepreneurs to do. They allow companies, new companies, new vision of a concept to be launched and then be built on a particular blockchain or a particular token.

Now in this particular example, we're talking about SafeMoon. And with SafeMoon, what they've done is they said, hey, we have a road map, thank you for investing in this coin, thank you for investing in this product. This is what we plan to get done. And everything that they've planned to get done, along the way, their goals have been hit. Guess what? With a Ponzi Scheme, there are no goals to be hit, there are no products to be released.

140. With respect to SafeMoon's 10% transaction tax (which, as noted above, is intended to discourage existing holders from selling), Arriaga states: "Let me go ahead and school [the critic] on something here. This is also a concept that's used in the real world. It's called stock dividends bud and it's a redistributing stock back to holders."

141. At the end of the video, Arriaga further attacked the critic and issued a threat to future critics of SafeMoon:

I was able to hop on YouTube and then find your little FUD video, trying to point fingers and call SafeMoon a Ponzi Scheme, when you don't even have the most basic concepts of understanding about the cryptocurrency space. You see something wrong with that? People

who are watching this, people like this, they push out content because they're opportunists. They want to get follows, they want to get views, they want to pique the Youtube algorithms for their own game and it doesn't matter what kind of damage and destruction they do to everything else. They just want to get content out there because they're thinking about themselves. Be careful, there are FUDsters like this everywhere. And no matter who you are or where you're from, I will find you. And I will expose you.

142. On May 24, Arriaga released his next video as “The FUD Hound,” titled “Safemoon redeemed, once again.” Like his previous video, “Safemoon redeemed, once again” addresses a particular video criticizing SafeMoon:

Sadly, the video I'm about to critique has almost 700,000 views at the time of this filming. That means that thousands or even hundreds of thousands of interested investors who have viewed this video and may be unfamiliar with SafeMoon are now influenced by bad logic and inaccurate information. This is where I clear the air and I expose those that put popularity before others and cause irreparable damage on well-meaning companies and movements because they haven't performed their own basic research.

143. In his video, Arriaga claims that SAFEMOON “is one of the very very few cryptocurrencies that serve to enrich the people rather than serve to enrich a small group of investors that got in early.” To support his claim that SAFEMOON Tokens are valuable assets, he—once again—compares SAFEMOON Tokens to stock: “Just like Tesla, the product here is the company in which SAFEMOON coin represents, much like how a stock represents liquidity for Tesla.”

144. On June 4, Arriaga released a third video, “HashEx Safemoon Audit DEBUNKED.” The video was made in response to a May 22, 2021, report published by HashEx Security, which was discussed in an article in *Coin Telegraph*.⁴³ In that audit, HashEx identified a number of

⁴³ <https://blog.hashex.org/safemoon-smart-contract-audit-report-8e4b843a375d>

“critical” issues with the protocol underlying SAFEMOON tokens, including that the SafeMoon retained control over certain functions such that, if SafeMoon acted “maliciously,” it could cause “devastating consequences for the token making it completely unusable.” In his video, Arriaga attempts to paint HashEx as a shady Russian company and concludes:

Don’t fall for FUD. Don’t fall for lazily written articles especially if they’re written of the backs of ambiguous sources. Think bigger picture. Think strategy. In the world of business, there is always war, and there will always be controlled establishments that will try their hardest to maintain their power. But it will be done privately and not publicly to save face. So to the rest of you, that help spread unwarranted FUD, that serve the controlling establishment and sling arrows for your own gain. I will find you and I will expose you.

145. On June 7, Arriaga released a fourth video, “Safemoon redeemed a 3rd time!” Toward the beginning of that video, aimed at another critic who had characterized SafeMoon as a “scam,” he compares the critic to “that person in your circle of friends who’s the toxic one that keeps spreading rumors and gossip because they’re insecure, jealous, and knows that they need to tear down others secretly to bring themselves up.” He concludes:

In closing, there’s one thing I want all of my subscribers to understand. I expose these people because I understand how cutthroat and nasty people can be when you are trying to do good for the world. I have witnessed so many good-intentioned people be attacked and vilified for those who have never built or created anything of value in their entire lives. It’s really easy to sit on the sidelines and talk about someone else’s business idea or vision and cut them down at the knees for your own gain. It’s really easy to spread rumors and gossip to cause damage. This type of person is called an opportunist. This type of person is called a FUD agent. So to all the FUDsters out there that attempt to build their credibility and their brands off of the irresponsible damage and destruction you inflict on to others. Just know, that I will sniff you out. I will find you. And I will expose you.

146. On June 13, Arriaga released a fifth video, titled “Crypto Genesis spreads FUD about Safemoon – DEBUNKED.” Consistent with the themes from his previous videos, he starts: “I want

each and every one of you to understand that any time there is a movement, like what we see with SafeMoon, anytime there is a community of hopefuls coming together to change the status quo, you will be vilified, you will be mocked, you will be ridiculed and hated on, but remember, they only fight you, and they only smear you, because you are a threat.” And, as in his previous videos, he questions the motives of the critic that he addresses: “Many FUDsters can be funded by the opposition.”

147. On June 21, Arriaga released his sixth and final video as “The FUD Hound.” He summarizes the content of that video as follows: “Matt Wallace exposed after bashing Safemoon. His research is lazy and misleading and we get to witness him getting owned on a live-stream as he comes unprepared with zero facts. Watch this epic display of failure as this FUDster gets exposed.” In the video, Arriaga states: “What is making SafeMoon so popular, is because of its world-class tokenomics.” He outlandishly implies that the price of SAFEMOON tokens could plausibly reach \$1—an amount that would make the \$40,000 in tokens purchased by Portnoy in mid-May 2021 worth approximately \$4.56 billion. He concludes:

When you’re spreading such misinformation, you’re messing with people’s money. You’re messing with their livelihoods. When I watch this, it tells me [the critic] doesn’t value logic and principle of doing the right thing. He’s caring more about the capital gain of his video at the expense of an innocent community. He believes in guilty until proven innocent. This is what I expose on this channel. If you’re going to spread accusations, you better be able to back them up with those really cool things called facts, logic, reason, and evidence.

148. Not only did Arriaga promote SafeMoon through his videos, but he also promoted SafeMoon through his Twitter account, @TheFUDHound. For example, on July 14, he stated: “All a man has in the world is his word. Has #Safemoon ever given us their word and broken it? Not that I’m aware of. Stay patient. Trust. Good things to come ... reject the FUD.” On July 19, he stated:

“Pro tip: Attacking other projects just makes you & the project you support look subpar & weak. #Safemoonarmy see right through it. Not fooling anyone.” On July 27, he stated: “For those who doubt, don’t doubt. They are a startup, they just hired someone who will help them build such beautiful tech ... we will dominate – just give us time and confidence community. We got this.”

149. Other Defendants’ likewise promoted SafeMoon by purporting to rebut its critics. On April 22, after the price of SAFEMOON Tokens dropped, SafeMoon tweeted: “BELIEVE THE FACTS NOT THE FUD.” On April 26, SafeMoon tweeted: “We will not stand for Trolls, Haters, FUD spammers ... we have a voice ... we have a face the CEO: @CptHodl unlike most projects or accounts in the space. We are #SAFEMOON.” @CptHodl is Karony’s Twitter handle. On June 4, SafeMoon tweeted a video titled “FUD MONSTER IN REALITY,” which showed a cartoon “FUD Monster” being slayed by a mouse.

150. In sum, Defendants’ videos and posts were intended to, and did in fact, persuade investors to buy SAFEMOON Tokens, notwithstanding the fact that commentators had raised legitimate concerns regarding the long-term viability of any investment in those tokens.

D. SafeMooon Sold SAFEMOON Tokens

151. In addition to promoting and soliciting sales of SAFEMOON tokens, SafeMoon itself has continuously sold SAFEMOON Tokens throughout the Class Period. SafeMoon was the original seller of every single SAFEMOON Token ever in circulation.

152. In early March 2021 alone, SafeMoon created 1 quadrillion SAFEMOON Tokens out of thin air. Since launch, moreover, SafeMoon has sold SAFEMOON Tokens to raise funds for its business. For example, in a March 2021 ask-me-anything session, SafeMoon explained that they sold tokens because they “needed USDT to pay for business expenses” to “help develop the project

and help the community.”⁴⁴ As discussed below, Karony has likewise admitted that SafeMoon reserves the right to withdraw SAFEMOON Tokens from liquidity pools created by SafeMoon, and sell those tokens, in order to pay for “development costs of future SafeMoon innovations.”

153. Further, each time that there is a transaction with SAFEMOON tokens, SafeMoon *necessarily* sells a portion of those tokens. This is because, as explained above, as part of the protocol underlying SAFEMOON Tokens, 10% of each transaction is taxed and, purportedly, half of the amount taxed—*i.e.*, 5%—is allocated to liquidity pools. Specifically, SafeMoon swaps half of that 5% of SAFEMOON Tokens earmarked for liquidity pools for BNB, meaning that SafeMoon *sells* half of that 5% (*i.e.*, 2.5%) on the market. SafeMoon then stakes the BNB that it obtains on the market, plus the remaining 2.5% of SAFEMOON Tokens earmarked for liquidity pools, into the liquidity pools. For example, if someone sells 1,000 SAFEMOON Tokens, 100 of those Tokens will be taxed. Of those 100 Tokens, 50 will be allocated to the liquidity pools: 25 will be sold by SafeMoon on the open market for BNB, which will then be staked in the liquidity pools along with another 25 SAFEMOON Tokens. Since SAFEMOON Tokens were first released in early March 2021, the volume of trading in SAFEMOON Tokens has exceeded \$7.5 billion. SafeMoon has thus sold (if its protocol works the way that SafeMoon has represented it works) at least \$189 million in SAFEMOON tokens for BNB, and staked another \$189 million worth of SAFEMOON tokens in liquidity pools.

154. Moreover, with respect to V2 Tokens, one percent of each SAFEMOON Token transaction is earmarked for SafeMoon’s “Growth Fund,” which is designed to raise capital for

⁴⁴ https://www.reddit.com/r/SafeMoon/comments/m87k9l/notes_from_tonights_live_ama/

SafeMoon's business. SAFEMOON Tokens allocated to the "Growth Fund" were, accordingly, sold to raise funds for SafeMoon.

IV. The Price of SAFEMOON Tokens Skyrockets and Then Collapses

155. On its website, SafeMoon describes some of the risks that investors in SAFEMOON Tokens may face.⁴⁵ SafeMoon explains that "[t]he price of tokens can be subject to dramatic fluctuations and high volatility due to the rapid shifts in offer and demand resulting from events such as but not limited to: (a) good or bad publicity, (b) changes in the financial technology industry, (c) technological advancement, (d) market trends, (e) general economic and/or political conditions, (f) degree of adoption, (g) degree of institutional support, (h) regulatory measures, (i) degree of government support, (l) market dynamics, (m) trading activities, (n) hacking, and (o) events affecting large service providers, including exchanges."

156. Consistent with that disclaimer, since their launch in March 2021, the price of SAFEMOON Tokens has been "subject to dramatic fluctuations and high volatility." Over the period from March 20, 2021, to April 20, 2021, the price of SafeMoon tokens increased from \$0.0000000644 to \$0.0000139, or 21,583%.

157. Like the price of a stock issued by a company, the price has correlated with news about SafeMoon. On April 21, 2021, Obelisk published a research paper on SafeMoon titled "Can You Trust SafeMoon?"⁴⁶ After noting that "SafeMoon was advertised as 'anti-rugpull' and as having its liquidity locked for 4 years," the paper explained:

With the massive market capitalization that SafeMoon has amassed, the reflected fees that ended up being added in liquidity have also

⁴⁵ <https://safemoon.com/legal/disclaimer>

⁴⁶ <https://obelisk.medium.com/can-you-trust-safemoon-bf2b2db76d16>

come to be worth a lot. One of the main issues with the whole project is that while users are [led] to believe that the Liquidity Provider tokens (essentially the receipt for having provided liquidity) are in fact locked and inaccessible from the founders, the exact opposite happens.

158. In particular, Obelisk found that SafeMoon can do “anything it wanted at any time” with SAFEMOON Tokens that were supposedly locked in liquidity pools. In other words, contrary to its prior representations, SafeMoon did not “lock” SAFEMOON tokens in liquidity pools; SafeMoon could withdraw those tokens as it pleased.

159. In response to concerns from investors, on April 21, Karony stated in a series of all-caps tweets: “THE LP LOCK IS NOT AUTOMATIC BUT AUTOMATED. AUTOMATED AND AUTOMATIC ARE NOT THE SAME THING. THIS IS ONE FOR BOTH SECURITY AND LONGEVITY OF #SAFEMOON. WE ARE FOCUSED ON THE FUTURE, AND UNDERSTAND THAT SITUATIONS ARISE WHICH MAY REQUIRE THE USE OF THE LP. USES INCLUDE: SEEDING OTHER EXCHANGES AND DEX’S, DEVELOPMENT COSTS OF FUTURE SAFEMOON INNOVATIONS.” (Arriaga likewise admitted, in a June 2, 2021, YouTube video, that SafeMoon intentionally decided not to lock the liquidity pools because it wanted to maintain flexibility to use those funds for other purposes.⁴⁷ There can, accordingly, be no doubt that SafeMoon did not in fact “lock” the liquidity pools.)

160. On the news that SafeMoon’s team could in fact draw on the liquidity pools, the price of SAFEMOON Tokens fell to \$0.00000641 by the end of the day on April 21, and further to \$0.00000376 by the end of the day on April 22. This represented a 72.95% decrease in price from the high on April 20.

⁴⁷ <https://www.youtube.com/watch?v=rB1m7NiaekA>

161. In response to the allegations contained in the Obelisk report and related concerns raised by investors, SafeMoon commissioned an audit from CertiK. Consistent with Obelisks's findings, CertiK concluded: "[a]n owner address will acquire the liquidity pool tokens generated by the Safemoon-BNB pool," which "gives the owner control over tokens funded by Safemoon's seller fee."⁴⁸ Nevertheless, following that audit, on May 6, SafeMoon asserted on its Twitter page that it was "approved" by CertiK. By the end of that day, the price of SafeMoon had increased to \$0.00000993, from \$0.00000581 on the previous day, an increase of approximately 171%.

162. CertiK, of course, had not "approved" SafeMoon. Worse, SafeMoon, in response to concerns raised by CertiK, stated that investors should not be concerned because, in essence, SafeMoon would not steal:

In regards to owner control, we are a fair launch governed by a central board which is subject to governmental regulations and law. We are a legally registered entity in accordance to the law and jurisdiction in which we operate. SafeMoon is very different from other projects, and our differences provide more security for the community vs. anonymous teams and projects. Risks in regard to "rug pulls" or anything else is mitigated due to the fact that every member of SafeMoon would be subject to litigation and likely a swift prison sentence. Additionally, outside of the law, our social lives would be in ruin, and we would not be able to show our faces in public again, let alone get another job. This should be taken into account when looking at the SafeMoon project as a whole.⁴⁹

163. Available evidence suggests, however, that SafeMoon *has* misappropriated funds that were supposed to have been locked in liquidity pools: investors have reported that SafeMoon

⁴⁸ <https://www.nasdaq.com/articles/should-you-or-anyone-buy-safemoon-2021-05-29>

⁴⁹ <https://www.certik.com/projects/safemoon>

“had a 250 million dollar liquidity pool that got drained (we still don’t know where it left).”⁵⁰ As explained below, that speculation was later confirmed.

164. Volatility continued over the ensuing months. Over that period, SafeMoon frequently advertised new products on its Twitter account, including the SafeMoon Wallet. On August 8, SafeMoon announced that the SafeMoon Wallet would launch on August 28. In the lead up to the launch, the price of SAFEMOON tokens increased from \$0.00000212 on the morning of August 8 to a high of \$0.00000354 on August 28, an increase of 167%.

165. On August 28, SafeMoon announced, however, that the launch would be delayed, due to “Technical difficulties.” By the end of the next day, August 29, the price of SafeMoon tokens had fallen to \$0.00000251, nearly 30%.

166. As Decrypt reported, when the SafeMoon Wallet finally launched on September 13, the price of SAFEMOON tokens “sprung upward 20%,” “as if headed to the moon.”⁵¹

167. After seeing prices increase to as high as \$0.00000652 in the wake of the release of the SafeMoon Wallet, the price of SAFEMOON tokens has since dropped to approximately \$0.0000001079.

168. On April 18, 2022, popular YouTube investigator Stephen Findeisen, known as “Coffeezilla,” released a video titled “I UNCOVERED A BILLION DOLLAR FRAUD.” In the video, which has been viewed more than 1.3 million times (and covered in countless crypto-related publications), “Coffeezilla” explains that the Controller Defendants siphoned SAFEMOON tokens

⁵⁰ https://www.reddit.com/r/SafeMoon/comments/sy5xts/some_words_from_an_old_investor/

⁵¹ <https://decrypt.co/80883/safemoon-price-rises-20-wallet-release>

from the liquidity pool, which they had previously represented was locked. In response to this disclosure, the price of SAFEMOON v2 tokens fell 25%.

V. SafeMoon Imposes a 100% Tax on Investors' SAFEMOON Tokens

169. As referenced above, on around December 16, 2021, SafeMoon released a second version “V2” of the SAFEMOON tokens. SafeMoon made it possible for investors who held the original “V1” tokens to exchange them for V2 tokens. But investors could exercise this option only if they knew they had it. Many investors were unaware that this option was available to them. As a result, investors were slow to transition from V1 to V2: by December 29, only 10% of wallets holding SAFEMOON had made the switch.

170. On that day, SafeMoon announced via a Twitter post that it would be imposing a 100% tax on all transactions involving SAFEMOON Tokens that had not been transitioned to V2. The post was dated 9:30 AM, December, 2021, and it stated: “At 4pm GMT / 11am EST / 8am PST, the V1 tax will be changing to 100%. We are moving our full focus to V2 to evolve the #SAFEMOON ecosystem. Bring on 2022. .”⁵²

171. SafeMoon did not take steps to ensure that investors who attempted to transact with V1 SAFEMOON Tokens would be protected against losing their full investment. It did not make a conversion of V1 to V2 tokens automatic. It did not post a warning within the SAFEMOON wallet interface. It did not implement a pop-up warning in the SAFEMOON wallet to alert investors who were attempting to transact in SAFEMOON V1 tokens that an such attempts were futile and would only result in confiscation of their tokens.

⁵² <https://twitter.com/safemoon/status/1476198900717342724>.

172. Predictably, many investors did not happen to see SafeMoon's Twitter post or the subsequent discussion of it on Twitter or other online for a in the short period between when the tax was announced and when it was implemented. Instead, many investors attempted to transact in SAFEMOON V1 tokens, reasonably believing that they would be able to do so.

173. Those investors who attempted to transact in SAFEMOON V1 tokens after imposition of the "100% tax" effectively had their SAFEMOON tokens confiscated. The result was that they lost the entirety of the investment.

174. SafeMoon, of course, kept the funds that it received from the original purchasers of those tokens when it issued them.

175. The confiscation of tokens by the issuer is the epitome of a "rugpull." It is akin to an investor who holds stock through an online brokerage account attempting to place a sell order and then being told that her shares have vanished. Of course, it would be cold comfort to such an investor to learn that if she had happened to see a Twitter post, she would have known she could convert her shares into a new class of shares.

VI. SAFEMOON Tokens Are Securities

176. On April 3, 2019, the SEC published a "Framework for 'Investment Contract' Analysis of Digital Assets," in which it "provided a framework for analyzing whether a digital asset is an investment contract and whether offers and sales of a digital asset are securities transactions." Among the most significant statements therein is the SEC's description of how to analyze the various facts surrounding ICOs in determining whether a given digital asset, like SAFEMOON, is a security. Under application of the Framework, SAFEMOON tokens are securities.

177. In the Framework, the SEC cautioned potential issuers: “If you are considering an Initial Coin Offering, sometimes referred to as an ‘ICO,’ or otherwise engaging in the offer, sale, or distribution of a digital asset, you need to consider whether the U.S. federal securities laws apply.”

The SEC explained the basics of the *Howey* test:

The U.S. Supreme Court’s *Howey* case and subsequent case law have found that an “investment contract” exists when there is the investment of money in a common enterprise with a reasonable expectation of profits to be derived from the efforts of others. The so-called “*Howey* test” applies to any contract, scheme, or transaction, regardless of whether it has any of the characteristics of typical securities. The focus of the *Howey* analysis is not only on the form and terms of the instrument itself (in this case, the digital asset) but also on the circumstances surrounding the digital asset and the manner in which it is offered, sold, or resold (which includes secondary market sales). Therefore, issuers and other persons and entities engaged in the marketing, offer, sale, resale, or distribution of any digital asset will need to analyze the relevant transactions to determine if the federal securities laws apply.

Investors who bought SAFEMOON Tokens invested money or crypto-assets, in a common enterprise—SafeMoon. Investors had a reasonable expectation of profit based upon the efforts of SafeMoon, including, among other things, to create a successful business.

A. Investors Invested Money

178. Investors in SAFEMOON tokens made an investment of money or other valuable consideration for purposes of *Howey*. The Framework states: “The first prong of the *Howey* test is typically satisfied in an offer and sale of a digital asset because the digital asset is purchased or otherwise acquired in exchange for value, whether in the form of traditional (or fiat) currency, another digital asset, or other type of consideration.”

179. SAFEMOON tokens have been listed on many crypto-asset exchanges, including PancakeSwap, and those crypto-asset exchanges permit investors to purchase SAFEMOON tokens with Bitcoin and ether and other digital assets.

B. SAFEMOON Investors Participated in a Common Enterprise

180. The SEC Framework states: “In evaluating digital assets, we have found that a ‘common enterprise’ typically exists.” This is “because the fortunes of digital asset purchasers have been linked to each other or to the success of the promoter’s efforts.”

181. The SAFEMOON Tokens are no different. Investors are passive participants, and the profits of each investor are intertwined with those of both Defendants and of other investors. Defendants are responsible for supporting and building SAFEMOON, pooled investors’ assets, and effectively controlled those assets. Defendants also retained a significant stake in SAFEMOON Tokens, approximately 50%, thus sharing in the profits and risk of the venture.

C. Investors Purchased the SAFEMOON Tokens with a Reasonable Expectation of Profit from Owning Them

182. As to “reasonable expectation of profits,” the SEC Framework states: “A purchaser may expect to realize a return through participating in distributions or through other methods of realizing appreciation on the asset, such as selling at a gain in a secondary market.”

183. Investors in the SAFEMOON tokens, including Plaintiffs and the other Class members, made their investment with a reasonable expectation of profits. Indeed, the Long Whitepaper, through which SafeMoon promoted SAFEMOON Tokens, included numerous references to the price of SAFEMOON Tokens potentially rising.

184. Alluding to the “AP” (the “Active Participant”), which is the promoter, sponsor, or other third party that “provides essential managerial efforts that affect the success of the enterprise,”

the Framework identifies a series of factually intense questions underscoring the time the SEC had spent considering these issues.

185. The Framework lays out a number of characteristics to assess whether the “reasonable expectation of profits” element is met with respect to whether digital assets (such as SAFEMOON) thereby satisfy the *Howey* test. These include factors such as whether the asset is tradable on an exchange, whether investors can buy more assets than they would individually need to use the technology, if it is marketed as an investment, whether it has any utility, and the lack of an existing product with which to use the assets.

186. The SEC Framework clarifies that investors purchased the SAFEMOON Tokens with a reasonable expectation of profits. *First*, SAFEMOON tokens have no utility whatsoever. *Second*, SAFEMOON Tokens are tradable on exchanges. *Third*, SAFEMOON Tokens were tradable long before SafeMoon had developed any other product and were thus not necessary to use any technology. Indeed, until September 2021, SafeMoon’s only product was SAFEMOON Tokens. *Fourth*, SAFEMOON Tokens were long marketed as a speculative investment, including in the Long Whitepaper, which featured a graph of price rising in perpetuity.

D. SAFEMOON Token Investors Expected Profits from SAFEMOON Tokens to Be Derived from Defendants’ Managerial Efforts

187. The SEC Framework provides that the “inquiry into whether a purchaser is relying on the efforts of others focuses on two key issues: Does the purchaser reasonably expect to rely on the efforts of an [Active Participant]? Are those efforts ‘the undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise,’ as opposed to efforts that are more ministerial in nature?” The more of the following characteristics (among others)

that are present, “the more likely it is that a purchaser of a digital asset is relying on the ‘efforts of others’”:

- An [“Active Participant” or “AP”] is responsible for the development, improvement (or enhancement), operation, or promotion of the network.
 - For example, the Framework states this is the case where “purchasers may reasonably rely on an AP for liquidity, such as where the AP has arranged, or promised to arrange for, the trading of the digital asset on a secondary market or platform.”
- The AP is expected to perform essential tasks.
- The AP controls the market for the digital asset, such as by limiting supply.
 - For example, the Framework states: “this can include, for example, an AP that: (1) controls the creation and issuance of the digital asset; or (2) takes other actions to support a market price of the digital asset, such as by limiting supply or ensuring scarcity, through, for example, buybacks, ‘burning,’ or other activities.”
- The AP has a lead role in the development of the network or role of the digital asset.
- The AP decides who receives digital assets and under what conditions.
- The AP distributes the digital asset to internal team members as compensation.

188. Shifting its focus to the numerous facts bearing on the nature of the digital asset at issue, the SEC explained still further that the greater the presence of the following factors (among others), the less likely the *Howey* test is met:

- The distributed ledger network and digital asset are fully developed and operational.
- Holders of the digital asset are immediately able to use it for its intended functionality on the network, particularly where there are built-in incentives to encourage such use.
- The digital assets’ creation and structure is designed and implemented to meet the needs of its users, rather than to feed speculation as to its value or development of its network. For example, the digital asset can only be

used on the network and generally can be held or transferred only in amounts that correspond to a purchaser's expected use.

- Prospects for appreciation in the value of the digital asset are limited.
- With respect to a digital asset referred to as a virtual currency, it can immediately be used to make payments in a wide variety of contexts, or acts as a substitute for real (or fiat) currency.
- With respect to a digital asset that represents rights to a good or service, it currently can be redeemed within a developed network or platform to acquire or otherwise use those goods or services.
- If the AP facilitates the creation of a secondary market, transfers of the digital asset may only be made by and among users of the platform.

189. Investors' profits in SAFEMOON Tokens were to be derived from the managerial efforts of others—specifically, SafeMoon and the Controller Defendants. SAFEMOON Token investors rely on the managerial and entrepreneurial efforts of SafeMoon and their executive and development teams to manage and develop SafeMoon's business, as well as projects funded by SafeMoon's sale of SAFEMOON Tokens to the public.

190. Under the SEC's Framework, SAFEMOON tokens satisfy most if not all of the relevant SEC factors as to whether a digital asset is a security. SafeMoon created SAFEMOON Tokens from thin air. SafeMoon developed the software underlying SAFEMOON Tokens, and is responsible for maintaining and, where necessary, modifying that software. SafeMoon is responsible for developing secondary markets for trading SAFEMOON Tokens, including through exchange listings and liquidity pools. SafeMoon may also limit supply by engaging in "manual burns" of SAFEMOON Tokens. SafeMoon is responsible for marketing SAFEMOON Tokens and other SafeMoon products, which could foster additional adoption and use of, and demand for, SAFEMOON tokens.

191. Where SafeMoon succeeded in these areas, the price of SAFEMOON Tokens increased (such as when SafeMoon released the SafeMoon Wallet and obtained exchange listings). Where SafeMoon failed, the price of SAFEMOON Tokens fell (such as when SafeMoon failed to timely release the SafeMoon wallet). Accordingly, the profits of investors in SAFEMOON tokens were dependent on the extent to which SafeMoon succeeded.

E. The SEC Has Concluded That Tokens Such As SAFEMOON Are Securities

192. The SEC has found that several tokens very similar to SAFEMOON, issued between 2017 and the present, are securities.

193. On September 30, 2019, for example, the SEC found that Block.one had violated the Securities Act through its unregistered sale to U.S. investors of its EOS token.

194. In arriving at its determination that the EOS token is a security, the SEC reached the following conclusions:

- “A number of US investors participated in Block.one’s ICO.”
- “Companies that offer or sell securities to US investors must comply with the securities laws, irrespective of the industry they operate in or the labels they place on the investment products they offer.”
- “Block.one did not provide ICO investors the information they were entitled to as participants in a securities offering.”
- “[EOS] Tokens were securities under the federal securities laws”
- “A purchaser in the offering of [EOS] Tokens would have had a reasonable expectation of obtaining a future profit based upon Block.one’s efforts, including its development of the EOSIO software and its promotion of the adoption and success of EOSIO and the launch of the anticipated EOSIO blockchains.”
- “Block.one violated Sections 5(a) and 5(c) of the Securities Act by offering and selling these securities without having a registration statement filed or in

effect with the Commission or qualifying for an exemption from registration.”

As a result of the SEC’s enforcement action, Block.one consented to a settlement whereby it would pay \$24 million to the SEC.

195. In December 2020, the SEC sued Ripple Labs Inc. and its executives for conducting a \$1.3 billion unregistered, ongoing digital asset securities offering of its token, “XRP,” several years after its offering and after millions of users used it. The SEC alleged that because Ripple held so much XRP itself, XRP holders necessarily depended on the efforts of Ripple to maintain the value of XRP. Ripple itself promoted XRP and touted its ability to create demand for XRP.

196. As alleged above, even SafeMoon’s principals have analogized SAFEMOON Tokens to a stock, which is a paradigmatic example of a security.

VII. Plaintiffs and the Other Class Members Have Suffered Significant Damages from Defendants’ Actions

197. As a direct result of Defendants’ misconduct, Plaintiffs and the other Class members—many of whom are retail investors who lack the technical and financial sophistication necessary to have evaluated the risks associated with their investments in the SAFEMOON Token—have suffered significant damages, in an amount to be proven at trial. Inasmuch as Plaintiffs and the other Class members still hold SAFEMOON tokens, they demand rescission and make any necessary tender of the SAFEMOON tokens.

VIII. CLASS ALLEGATIONS

198. Plaintiffs bring this action as a class action pursuant to Fed. R. Civ. P. 23 and seek certification of the following Class: All persons who purchased SAFEMOON Tokens from March 8, 2021, to the present.

199. The Class includes individuals who purchased SAFEMOON Tokens in the ICO and individuals who purchased SAFEMOON tokens in sales made through online crypto-asset exchanges and through the SafeMoon Wallet.

200. The Class excludes Defendants, their officers and directors, and members of their immediate families or their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest. The Class also excludes individuals subject to any enforceable arbitration clause contained in any of the purchase agreements executed in connection with their purchase of SAFEMOON tokens.

201. In addition, the Class excludes individuals who, during the Class Period, sold all of their SAFEMOON Tokens at a price higher than the price at which they purchased them.

202. Plaintiffs reserve the right to amend the Class definition if investigation or discovery indicate that the definitions should be narrowed, expanded, or otherwise modified.

203. The Class members are so numerous that joinder of all members is impracticable. The precise number of Class members is unknown to Plaintiffs at this time, but it is believed to be in the tens of thousands.

204. The Class members are readily ascertainable and identifiable. Class members may be identified by publicly accessible blockchain ledger information and records maintained by Defendants, crypto-asset exchanges, or their agents. They may be notified of the pendency of this action by electronic mail using a form of notice customarily used in securities class actions.

205. Plaintiffs' claims are typical of the claims of the Class members as all Class members are similarly affected by Defendants' respective wrongful conduct in violation of the laws

complained of herein. Plaintiffs do not have any interests that are in conflict with the interests of the Class members.

206. Plaintiffs and the other Class members sustained damages from Defendants' common course of unlawful conduct based upon the loss in market value of the SAFEMOON Token.

207. Plaintiffs have fairly and adequately protected, and will continue to fairly and adequately protect, the interests of the other Class members, and have retained counsel competent and experienced in class actions and securities litigation. Plaintiffs have no interests antagonistic to those of the Class members.

208. Common questions and answers of law and fact exist as to all Class members and predominate over any questions solely affecting individual Class members, including, but not limited to, the following:

- Whether a SAFEMOON Token is a security under federal law;
- Whether Defendants unlawfully failed to register SAFEMOON Tokens as a security under federal law;
- Whether Defendants offered or sold SAFEMOON Tokens to Class members;
- Whether Defendants promoted or solicited the sale of SAFEMOON Tokens to Class members;
- Whether Defendants made false or misleading statements regarding the security of funds staked in liquidity pools;
- Whether Defendants made such statements recklessly or knowing that such statements were false or misleading;
- Whether the Class members suffered damages as a result of Defendants' conduct in violation of federal law;

- Whether the Class members are entitled to recover the monies they paid for their purchases of SAFEMOON Tokens; and
- Whether the Class members are entitled to recover from Defendants some or all of their ill-gotten gain as a result of their violation of federal law.

209. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all Class members is impracticable. In addition, as the damages suffered by some of the individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for Class members to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

FIRST CAUSE OF ACTION
Sections 5 and 12(a)(1) of the Securities Act
(On Behalf of the Class Against Defendants)

210. Plaintiffs incorporate the allegations above.

211. Plaintiffs bring this claim for violations of Sections 5 and 12(a)(1) of the Securities Act, 15 U.S.C. §§ 77e, 77l(a)(1).

212. Plaintiffs bring this claim on behalf of all Class members who purchased SAFEMOON tokens from March 8, 2021, to the present.

213. Section 5(a) states: “Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly (1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or (2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.” *Id.* § 77e(a).

214. Section 5(c) makes it unlawful “for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under section 77h of this title.” *Id.* § 77e(c).

215. When sold and issued, from March 2021 to now, the SAFEMOON tokens were securities within the meaning of Section 2(a)(1) of the Securities Act, *id.* § 77b(a)(1), and SafeMoon is an issuer of the SAFEMOON tokens that Plaintiffs and the other Class members have purchased, *id.* § 77b(a)(4).

216. Defendants promoted, solicited, or sold purchases of SAFEMOON Tokens from Plaintiffs and other Class members with the motivation to serve their own financial interest.

217. Defendants directly or indirectly made use of means or instruments of transportation or communication in interstate commerce or of the mails, to offer to sell or to sell securities, or to carry or cause such securities to be carried through the mails or in interstate commerce for the purpose of sale or for delivery after sale. No registration statements have been filed with the SEC or have been in effect with respect to any of the offerings alleged herein.

218. Section 12(a)(1) provides in relevant part: “Any person who offers or sells a security in violation of section 77e of this title . . . shall be liable, subject to subsection (b), to the person purchasing such security from him, who may sue either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon, less the amount

of any income received thereon, upon the tender of such security, or for damages if he no longer owns the security.” *Id.* § 77l(a)(1).

219. Accordingly, Defendants have violated Sections 5(a) and 5(c) of the Securities Act, *id.* §§ 77e(a), 77e(c), and are liable under Section 12(a)(1), *id.* § 77l(a)(1).

220. Plaintiffs and the other Class members seek rescissory damages with respect to their purchases of SAFEMOON tokens.

SECOND CAUSE OF ACTION
Section 15 of the Securities Act
(On Behalf of the Class Against the Controller Defendants)

221. Plaintiffs incorporates the allegations above.

222. Plaintiffs bring this claim under Section 15 of the Securities Act, 15 U.S.C. § 77o.

223. Plaintiffs bring this claim on behalf of all Class members who purchased SAFEMOON Tokens from March 8, 2021, to the present.

224. Section 15(a) states: “Every person who, by or through stock ownership, agency, or otherwise, or who, pursuant to or in connection with an agreement or understanding with one or more other persons by or through stock ownership, agency, or otherwise, controls any person liable under sections 77k or 77l of this title, shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable, unless the controlling person had no knowledge of or reasonable ground to believe in the existence of the facts by reason of which the liability of the controlled person is alleged to exist.” *Id.* § 77o(a).

225. The Controller Defendants, by virtue of their offices, stock ownership, agency, agreements or understandings, and specific acts, at the time of the wrongs alleged herein, and as set

forth herein, had the power and authority to direct the management and activities of SafeMoon and its employees, and to cause SafeMoon to engage in the wrongful conduct complained of herein.

226. As executives at SafeMoon, the Controller Defendants had and exercised the power and influence to cause the unlawful sale and solicitation of purchases of SAFEMOON Tokens complained of herein, with the power to direct or cause the direction of the management and policies of SafeMoon.

227. The Controller Defendants had sufficient influence to have caused SafeMoon to sell and solicit transactions of SAFEMOON Tokens, and they themselves participated in the solicitation of such transactions.

228. By virtue of the conduct alleged herein, the Controller Defendants are liable for the wrongful conduct complained of herein and are liable to Plaintiffs and the other Class members for rescission and/or damages suffered.

THIRD CAUSE OF ACTION
Section 10(b) and Rule 10b-5
(On Behalf of the Class Against Defendants)

229. Plaintiffs incorporate the allegations above.

230. Plaintiffs bring this claim for violations of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5(b) promulgated thereunder, 17 C.F.R. § 240.10b-5(b).

231. Plaintiffs bring this claim on behalf of all Class members who purchased SAFEMOON Tokens from March 8, 2021, to the present.

232. The SAFEMOON Tokens are securities within the meaning of Section 2(a)(1) of the Securities Act, 15 U.S.C. § 77b(a)(1).

233. Section 10(b) and Rule 10b-5(b) make it illegal, in connection with the purchase or sale of any security, “for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange . . . to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.”

234. Defendants carried out a plan, scheme, and course of conduct that SafeMoon intended to and did deceive the retail investors—Plaintiffs and the other Class members—who acquired SAFEMOON Tokens in the March 2021 offering, and for a period of time thereafter, and thereby caused them to purchase SAFEMOON Tokens at artificially inflated prices.

235. In connection with the offering of SAFEMOON tokens, and in the period that followed, Defendants disseminated and approved the false statements described herein, which these Defendants knew or recklessly should have known were materially misleading in that they contained material misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not materially misleading.

236. Defendants employed devices, schemes, and artifices to defraud; made untrue statements of material fact and omitted to state material facts necessary to make the statements made not misleading; and engaged in acts, practices, and a course of business that operated as a fraud and deceit upon the Class members that resulted in artificially high market prices for SAFEMOON Tokens in connection with the March 2021 offering, and for a period of time thereafter, in violation of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

Misrepresentations and Omissions

237. Defendants' untrue statements and omissions of material facts in connection with the March 2021 offering of SAFEMOON tokens include at least the following:

- (a) In the Long Whitepaper, Defendants stated that SafeMoon has a "Step-by-Step Plan to Ensure 100% Safety." At step 1, "Dev Burned All Tokens in Dev Wallet Prior to Launch." At step 2, there is a "Fair Launch on DxSale." At step 3, the "LP Locked on DxLocker for 4 years." At step 4, "LP Generated With Every Trade & Locked on Pancake." The latter two steps indicate that SAFEMOON Tokens placed by SafeMoon into the liquidity pool could not be withdrawn by SafeMoon for a period of four years. In order to make that statement not false and misleading, Defendants would have needed to disclose that they retained control over funds staked in the liquidity pools and could withdraw those funds as they pleased.
- (b) In a tweet dated March 19, SafeMoon stated: "The moon just became even more #SAFU. Now completed is the 4 year lock on the second LP. We now have 2 locked LP expiring on May 1, 2025." In order to make that statement not false and misleading, Defendants would have needed to disclose that they retained control over funds staked in the liquidity pools and could withdraw those funds as they pleased.

Materiality

238. The foregoing misrepresentations and omissions were each material. These representations related to critical issues concerning the security of SAFEMOON tokenholders' investments. Indeed, if Defendants' representations were true (and SafeMoon had in fact locked SAFEMOON Tokens in liquidity pools), then Defendants would not be able to access or withdraw those tokens. In other words, if Defendants' representations regarding their ability to access SAFEMOON Tokens supposedly "locked" in liquidity pools were true, then SafeMoon would be unable to withdraw and abscond with those tokens.

239. If a reasonable investor knew that Defendants could in fact abscond with those tokens (or did in fact abscond with those tokens), then that investor would reasonably expect the price of SAFEMOON Tokens to be substantially lower, given that the investment would be riskier.

Scienter

240. Defendants acted with scienter in engaging in the forgoing misconduct, in that they either had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them.

241. Indeed, Defendants created and controlled the software that determined whether Defendants would have the ability to retain control over funds staked in liquidity pools and whether Defendants could draw on those funds. Defendants have likewise admitted that they intentionally decided to retain control over funds supposedly “locked” in liquidity pools, because they wanted to provide themselves with flexibility to pay for expenses that could arise in the future.

242. Defendants had the motive not to disclose these facts because such disclosure would have been self-defeating. Defendants controlled a significant proportion of SAFEMOON tokens, and such a disclosure would decrease the value of those assets. In other words, Defendants had an incentive to ensure that the price of SAFEMOON Tokens remained inflated.

Reliance, Economic Loss, and Loss Causation

243. As a result of the publication and dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the price of the SAFEMOON Tokens upon issuance in March 2021, and for a period of time thereafter, was artificially inflated.

244. In ignorance of the fact that the price of SAFEMOON tokens was artificially inflated, and relying directly or indirectly on the false, misleading, and materially incomplete statements that Defendants made and approved, or upon the integrity of the market in which the SAFEMOON tokens were sold, or on the absence of material adverse information that these Defendants knew or

recklessly should have known of but failed to disclose in public statement, Plaintiffs and the other Class members acquired SAFEMOOON Tokens at artificially high prices and were damaged thereby.

245. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs and the other Class members suffered damages in connection with the respective purchases of SAFEMOON Tokens and are entitled to an award compensating them for such damages.

246. Indeed, the price of SAFEMOON Tokens dropped significantly as Defendants disclosed, and the market discovered, that they retained control over funds staked in the liquidity pools and could withdraw those funds as they pleased. In particular, upon the disclosure in the Obelisk report dated April 21, 2021, the price of SAFEMOON tokens decreased by more than 70%. And upon the disclosure in Coffeezilla's April 18, 2022, video, the price of SAFEMOON tokens decreased by approximately 25%.

247. In addition, as a direct and proximate result of Defendants' wrongful conduct, SafeMoon has generated and retained ill-gotten in connection with the March 2021 offering of SAFEMOON tokens, such that Plaintiffs and the other Class members are entitled to the disgorgement of SafeMoon's ill-gotten gain from such misconduct.

FOURTH CAUSE OF ACTION
Section 20(a) of the Exchange Act
For Violation of Section 10(b) and Rule 10b-5
(On Behalf of the Class Against the Controller Defendants)

248. Plaintiffs incorporate the allegations above.

249. Plaintiffs bring this claim against the Controller Defendants for violations of Section 20(a) of the Exchange Act, 15 U.S.C. § 78t(a).

250. Plaintiffs bring this claim on behalf of all Class members who purchased SAFEMONN Tokens from March 8, 2021, to the present.

251. Section 20(a) states in relevant part: “Every person who, directly or indirectly, controls any person liable under any provision of this chapter or of any rule or regulation thereunder shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable . . . unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action.” *Id.*

252. The Controller Defendants, by virtue of their offices, stock ownership, agency, agreements or understandings, and specific acts, at the time of the wrongs alleged herein, and as set forth herein, had the power and authority to direct the management and activities of SafeMoon and its employees, and to cause SafeMoon to engage in the wrongful conduct complained of herein.

253. The Controller Defendants were provided with or had unlimited access to the information underlying their and SafeMoon’s public statements in connection with the March 2021 offering and had the ability to prevent the issuance of those statements and to disclose the information necessary to make statements not misleading under the circumstances in which they were made.

254. As a direct and proximate result of the Controller Defendants’ wrongful conduct, Plaintiffs and the other Class members suffered damages in connection with the respective purchases of SAFEMOON Tokens and are entitled to an award compensating them for such damages.

PRAYER FOR RELIEF

On behalf of themselves and the Class, Plaintiffs request relief as follows:

- (a) That the Court determines that this action may be maintained as a class action, that Plaintiffs be named as Class Representative of the Class, that the undersigned be named as Class Counsel, and direct that notice of this action be given to Class members;

- (b) That the Court enter an order declaring that Defendants' actions, as set forth in this Complaint, violate the federal laws set forth above;
- (c) That the Court award Plaintiffs and the other Class members damages in an amount to be determined at trial;
- (d) That the Court issue appropriate equitable and any other relief against Defendants to which Plaintiffs and the other Class members are entitled;
- (e) That the Court award Plaintiffs and the other Class members pre- and post-judgment interest (including pursuant to applicable statutory rates of interest);
- (f) That the Court award Plaintiffs and the other Class members their reasonable attorneys' fees and costs of suit; and
- (g) That the Court award any and all other such relief as the Court may deem just and proper under the circumstances.

JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs respectfully demand a trial by jury for all claims.

Dated: May 17, 2022

Respectfully Submitted,

HATCH LAW GROUP, PC

By: /s/ Brent O. Hatch
Brent O. Hatch
Tyler V. Snow

Associated Counsel for Plaintiff and the Class

SCOTT+SCOTT ATTORNEYS AT LAW LLP

John T. Jasnoch*
600 W. Broadway, Suite 3300
San Diego, CA 92101
Telephone: (619) 233-4565
jjasnoch@scott-scott.com

Sean T. Masson*
230 Park Avenue, 17th Floor
New York, New York 10069
Telephone: (212) 233-4111
smasson@scott-scott.com

ROCHE FREEDMAN LLP

Kyle W. Roche*
Velvel (Devin) Freedman*
Edward Normand*
Stephen Lagos*
99 Park Ave., 19th Floor
New York, New York 10017
Telephone: (646) 350-0527
kyle@rochefreedman.com
vel@rochefreedman.com
tnormand@rochefreedman.com
slagos@rochefreedman.com

Counsel for Plaintiff and the Class

* Denotes attorneys who will seek *pro hac vice* admission

CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2022, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

By: /s/ Brent O. Hatch